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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 2951

03/12/2014 Authored by Savick

The bill was read for the first time and referred to the Committee on Jobs and Economic Development Finance and Policy

1.1 A bill for an act
1.2 relating to economic development; modifying the greater Minnesota business
1.3 expansion sales tax exemption; amending Minnesota Statutes 2013 Supplement,
1.4 sections 116J.8738, subdivisions 2, 3, 4; 297A.68, subdivision 44.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2013 Supplement, section 116J.8738, subdivision 2,
1.7 is amended to read:

1.8 Subd. 2. **Qualified business.** (a) A business is a qualified business if it satisfies the
1.9 requirement of this paragraph and is not disqualified under the provisions of paragraph

1.10 (b). To qualify, the business must:

1.11 (1) have operated its trade or business in a city or cities in greater Minnesota for at
1.12 least one year before applying under subdivision 3;

1.13 (2) pay or agree to pay in the future each employee compensation, including benefits
1.14 not mandated by law, that on an annualized basis equal at least 120 percent of the federal
1.15 poverty level for a family of four;

1.16 (3) plan and agree to expand its employment in one or more cities in greater Minnesota
1.17 by the minimum number of employees required under subdivision 3, paragraph (c); and

1.18 (4) have received certification from the commissioner under subdivision 3 that
1.19 it is a qualified business.

1.20 (b) A business is not a qualified business if it is either:

1.21 (1) primarily engaged in making retail sales to purchasers who are physically present
1.22 at the business's location or locations in greater Minnesota; ~~or~~

1.23 (2) a public utility, as defined in section 336B.01; or

2.1 (3) primarily engaged in lobbying; gambling; entertainment; professional sports;
 2.2 political consulting; leisure; hospitality; or professional services provided by attorneys,
 2.3 accountants, business consultants, physicians, or health care consultants.

2.4 (c) The requirements in paragraph (a) that the business's operations and expansion
 2.5 be located in a city do not apply to an agricultural processing facility.

2.6 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.7 Sec. 2. Minnesota Statutes 2013 Supplement, section 116J.8738, subdivision 3, is
 2.8 amended to read:

2.9 Subd. 3. **Certification of qualified business.** (a) A business may apply to the
 2.10 commissioner for certification as a qualified business under this section. The commissioner
 2.11 shall specify the form of the application, the manner and times for applying, and the
 2.12 information required to be included in the application. The commissioner may impose an
 2.13 application fee in an amount sufficient to defray the commissioner's cost of processing
 2.14 certifications. A business must file a copy of its application with the chief clerical officer
 2.15 of the city at the same time it applies to the commissioner. For an agricultural processing
 2.16 facility located outside the boundaries of a city, the business must file a copy of the
 2.17 application with the county auditor.

2.18 (b) The commissioner shall certify each business as a qualified business that:

2.19 (1) satisfies the requirements of subdivision 2;

2.20 (2) the commissioner determines would not expand its operations in greater
 2.21 Minnesota without the tax incentives available under subdivision 4; and

2.22 (3) enters a business subsidy agreement with the commissioner that pledges to
 2.23 satisfy the minimum expansion requirements of paragraph (c) within three years or less
 2.24 following execution of the agreement.

2.25 The commissioner must act on an application within ~~60~~ 90 days after its filing.

2.26 Failure by the commissioner to take action within the ~~60-day~~ 90-day period is deemed
 2.27 approval of the application.

2.28 ~~(c) The following minimum expansion requirements apply, based on the number of~~
 2.29 ~~employees of the business at locations in greater Minnesota:~~

2.30 ~~(1) a business that employs 50 or fewer full-time equivalent employees in greater~~
 2.31 ~~Minnesota when the agreement is executed must increase its employment by five or more~~
 2.32 ~~full-time equivalent employees;~~

2.33 ~~(2) a business that employs more than 50 but fewer than 200 full-time equivalent~~
 2.34 ~~employees in greater Minnesota when the agreement is executed must increase the number~~
 2.35 ~~of its full-time equivalent employees in greater Minnesota by at least ten percent; or~~

3.1 ~~(3) a business that employs 200 or more full-time equivalent employees in greater~~
 3.2 ~~Minnesota when the agreement is executed must increase its employment by at least 21~~
 3.3 ~~full-time equivalent employees~~ (c) The business must increase the number of full-time
 3.4 equivalent employees in greater Minnesota from the time the business subsidy agreement
 3.5 is executed by two employees or ten percent, whichever is greater.

3.6 (d) The city, or a county for an agricultural processing facility located outside the
 3.7 boundaries of a city, in which the business proposes to expand its operations may file
 3.8 comments supporting or opposing the application with the commissioner. The comments
 3.9 must be filed within 30 days after receipt by the city of the application and may include a
 3.10 notice of any contribution the city or county intends to make to encourage or support the
 3.11 business expansion, such as the use of tax increment financing, property tax abatement,
 3.12 additional city or county services, or other financial assistance.

3.13 (e) Certification of a qualified business is effective for the ~~12-year~~ seven-year period
 3.14 beginning on the first day of the calendar month immediately following ~~execution of~~
 3.15 ~~the business subsidy agreement~~ the date that the commissioner informs the business of
 3.16 the award of the benefit.

3.17 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.18 Sec. 3. Minnesota Statutes 2013 Supplement, section 116J.8738, subdivision 4, is
 3.19 amended to read:

3.20 Subd. 4. **Available tax incentives.** A qualified business is entitled to a sales tax
 3.21 exemption, up to \$2,000,000 annually and \$10,000,000 during the total period of the
 3.22 agreement, as provided in section 297A.68, subdivision 44, for purchases made during
 3.23 the period the business was certified as a qualified business under this section. The
 3.24 commissioner has discretion to set the maximum amounts of the annual and total sales tax
 3.25 exemption allowed for each qualifying business as part of the business subsidy agreement.

3.26 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.27 Sec. 4. Minnesota Statutes 2013 Supplement, section 297A.68, subdivision 44, is
 3.28 amended to read:

3.29 Subd. 44. **Greater Minnesota business expansions.** (a) Purchases and use of
 3.30 tangible personal property or taxable services by a qualified business, as defined in section
 3.31 116J.8738, are exempt if:

3.32 (1) the business subsidy agreement provides that the exemption under this
 3.33 subdivision applies;

4.1 (2) the property or services are primarily used or consumed at the facility in greater
4.2 Minnesota identified in the business subsidy agreement; and

4.3 (3) the purchase was made and delivery received during the duration of the
4.4 certification of the business as a qualified business under section 116J.8738.

4.5 (b) Purchase and use of construction materials and supplies used or consumed in,
4.6 and equipment incorporated into, the construction of improvements to real property in
4.7 greater Minnesota are exempt if the improvements after completion of construction are
4.8 to be used in the conduct of the trade or business of the qualified business, as defined in
4.9 section 116J.8738. This exemption applies regardless of whether the purchases are made
4.10 by the business or a contractor.

4.11 (c) The exemptions under this subdivision apply to a local sales and use tax.

4.12 (d) The tax on purchases imposed under this subdivision must be imposed and
4.13 collected as if the rate under section 297A.62 applied, and then refunded in the manner
4.14 provided in section 297A.75. The total amount refunded for a facility over the certification
4.15 period is limited to the amount listed in the business subsidy agreement. No more than
4.16 \$7,000,000 may be refunded in a fiscal year for all purchases under this subdivision.
4.17 Refunds must be allocated on a first-come, first-served basis. If more than \$7,000,000 of
4.18 eligible claims are made in a fiscal year, claims by qualified businesses carry over to the
4.19 next fiscal year, and the commissioner must first allocate refunds to qualified businesses
4.20 eligible for a refund in the preceding fiscal year. Any portion of the balance of funds
4.21 allocated for refunds under this paragraph does not cancel and shall be carried forward to
4.22 and available for refunds in subsequent fiscal years.

4.23 **EFFECTIVE DATE.** This section is effective the day following final enactment.