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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 154

01/24/2013 Authored by Gunther, Mahoney, Nelson, Brynaert, Torkelson and others

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; creating the performance rewards on fast
1.3 investment today program; providing tax benefits; appropriating money;
1.4 proposing coding for new law in Minnesota Statutes, chapter 469.

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

1.6 Section 1. **[469.352] PERFORMANCE REWARDS ON FAST INVESTMENT**
1.7 **TODAY.**

1.8 Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms
1.9 have the meanings given.

1.10 (b) "New full-time employee" means an employee who:

1.11 (1) begins work at a qualified PROFIT business during the taxable year;

1.12 (2) was not previously on the payroll of the qualified PROFIT business; and

1.13 (3) has annualized expected hours of work of at least 1,950 hours.

1.14 (c) "Qualified performance rewards on fast investment today (PROFIT) business"
1.15 means a business that is certified by the commissioner under this section.

1.16 (d) "Taxing authority" means a county, home rule charter or statutory city, or town.

1.17 (e) "Wages" is defined as provided in section 290.92, subdivision 1, clause (1).

1.18 Subd. 2. **Application and certification.** (a) In order to qualify for the tax benefits
1.19 in subdivision 4, a business must submit an application to each taxing authority that
1.20 may be affected by the tax benefits under subdivision 5, 6, or 7, or to a joint powers
1.21 board established under section 471.59 acting on behalf of local government units with
1.22 jurisdiction to tax in the applicable geographic area. If the affected taxing authorities
1.23 determine that the increased business activities will benefit the local economy, the taxing
1.24 authorities may notify the commissioner that the business has received local approval to

2.1 be certified as a qualified PROFIT business. In making this determination, each taxing
 2.2 authority must consider the conditions listed in paragraph (e) and subdivision 3, paragraph
 2.3 (a), clauses (1) and (2).

2.4 (b) In lieu of paragraph (a), one or more taxing authorities or a joint powers board
 2.5 may provide a general local approval to the commissioner that applies to any business
 2.6 seeking approval to be certified as a qualified PROFIT business that conducts or plans
 2.7 to conduct business operations within an area subject to the jurisdiction of the taxing
 2.8 authority or authorities or joint powers board.

2.9 (c) Upon receiving notification of local approval under paragraph (a) or (b), the
 2.10 commissioner shall review the determination by the local taxing authorities or joint
 2.11 powers board and consider the conditions listed in paragraph (e) and subdivision 3,
 2.12 paragraph (a), clauses (1) and (2), to determine whether to certify a business as a qualified
 2.13 PROFIT business.

2.14 (d) The applications required under paragraph (a) must be in the form and be made
 2.15 under the procedures specified by the commissioner.

2.16 (e) Prior to certification of a business under this section, the commissioner shall
 2.17 consider the following:

2.18 (1) the economic outlook of the industry in which the business engages;

2.19 (2) the projected sales of the business that will be generated from outside the state
 2.20 of Minnesota;

2.21 (3) how the business will build on existing regional, national, and international
 2.22 strengths to diversify the state's economy;

2.23 (4) whether the business activity would occur without financial assistance;

2.24 (5) the effect of financial assistance on industry competitors; and

2.25 (6) any other criteria the commissioner deems necessary.

2.26 Subd. 3. **Requirements.** (a) To receive certification as a qualified PROFIT business,
 2.27 a business must satisfy all of the following conditions:

2.28 (1) the business is engaged in, within Minnesota, one of the following as its primary
 2.29 business activity:

2.30 (i) manufacturing;

2.31 (ii) warehousing;

2.32 (iii) distribution;

2.33 (iv) information technology;

2.34 (v) finance;

2.35 (vi) insurance; or

2.36 (vii) professional or technical services;

3.1 (2) the business must not be primarily engaged in lobbying, political consulting,
 3.2 leisure, hospitality, or professional services provided by attorneys, accountants, business
 3.3 consultants, physicians, or health care consultants; and

3.4 (3) the business must enter into a binding agreement with the appropriate local
 3.5 government unit in which the qualified PROFIT business is located and the commissioner
 3.6 to create at least ten new full-time employee positions, earning at least \$35,000 in annual
 3.7 wages for businesses located in the seven-county metropolitan area as defined in section
 3.8 473.121, subdivision 2, or at least \$27,000 in annual wages in all other areas and invest
 3.9 at least \$500,000 in a construction project that includes a new, expanding, or remodeled
 3.10 facility within two years of being certified as a qualified PROFIT business. The agreement
 3.11 may also include additional job creation goals as determined by the commissioner and the
 3.12 business and that must be achieved in order for the business to continue to be eligible for
 3.13 the tax benefits after the qualified PROFIT business initially meets the two-year goals.

3.14 (b) For purposes of this section, a business includes an individual, corporation,
 3.15 partnership, limited liability company, association, or any other entity.

3.16 Subd. 4. **Tax benefits.** (a) A business that is certified as a qualified PROFIT
 3.17 business is eligible for the following tax benefits for up to 12 years from the date the
 3.18 commissioner certifies the business as a qualified PROFIT business under this section:

3.19 (1) the property tax refund for certain improvements as provided in subdivision 5;

3.20 (2) a refund for sales and use tax and any local sales and use taxes on qualifying
 3.21 purchases made as provided in subdivision 6; and

3.22 (3) a refund for the state sales tax on motor vehicles and any local sales tax on motor
 3.23 vehicles as provided under subdivision 7.

3.24 (b) A refund of property, sales, or motor vehicle taxes paid, as described under
 3.25 paragraph (a), is provided to a qualified PROFIT business when two-year construction
 3.26 and employment goals under subdivision 3, paragraph (a), clause (3), are achieved and
 3.27 upon filing with the commissioner of revenue a claim for refund in the form and manner
 3.28 prescribed by the commissioner of revenue. Following achievement of the two-year goals,
 3.29 a qualified PROFIT business is eligible for a refund of property, sales, or motor vehicle
 3.30 taxes paid, as described under paragraph (a), in the previous year if the business meets the
 3.31 additional job creation goals. The amount of the refund is equal to the amount of property,
 3.32 sales, or motor vehicle taxes paid, as described under paragraph (a), in the previous calendar
 3.33 year if the business meets its additional job creation goals. If the business does not meet
 3.34 its additional job creation goals, then the refund is equal to the amount of property, sales,
 3.35 or motor vehicle taxes paid, as described under paragraph (a), in the previous calendar

4.1 year multiplied by the number of new full-time employee positions over the number of
4.2 full-time employee positions agreed to under subdivision 3, paragraph (a), clause (3).

4.3 Subd. 5. **Property tax refund.** (a) The value of improvements made to real property
4.4 and personal property, classified under section 273.13, subdivision 24, and owned and
4.5 operated by a qualified PROFIT business as defined under this section, may be refunded
4.6 as provided in this subdivision.

4.7 (b) For property to qualify for the refund, the occupant must be certified by the
4.8 commissioner as a qualified PROFIT business under this section.

4.9 (c) A qualified PROFIT business is eligible for the refund beginning the first
4.10 assessment year after the business is certified by the commissioner. To be eligible, the
4.11 property must be occupied by July 1 of the assessment year by a qualified PROFIT business.

4.12 (d) A qualified PROFIT business must notify the commissioner of revenue in writing
4.13 of eligibility under this subdivision by July 1 in order to begin receiving the refund under
4.14 this subdivision in the following year.

4.15 (e) The refund is distributed as provided in subdivision 4, paragraph (b), and
4.16 continues annually while the business is certified under this section as long as the business
4.17 continues to meet the job creation goals.

4.18 Subd. 6. **Sales and use tax refund.** (a) A qualified PROFIT business is eligible
4.19 for a refund of taxes paid under chapter 297A on the purchase and use of construction
4.20 materials, services, and supplies used or consumed in, including equipment incorporated
4.21 into, real property owned by a qualified PROFIT business if used in the conduct of a
4.22 qualified PROFIT business.

4.23 (b) The refund under this subdivision applies to a local sales and use tax regardless
4.24 of whether the local sales tax is imposed on the sales taxable as defined in chapter 297A.

4.25 (c) The refund under this subdivision applies regardless of whether the purchases are
4.26 made by the qualified PROFIT business or a contractor.

4.27 (d) The tax must be refunded in the manner provided under subdivision 4, paragraph
4.28 (b), subject to the job creation and construction agreement under subdivision 3, paragraph
4.29 (a), clause (3).

4.30 Subd. 7. **Motor vehicle tax refund.** (a) A qualified PROFIT business is eligible
4.31 for a refund of taxes paid under chapter 297B on the purchase of a motor vehicle, if the
4.32 motor vehicle is primarily used as part of or in direct support of the business operations of
4.33 a qualified PROFIT business. The refund applies to sales if the purchase was made and
4.34 delivery received during the duration of a qualified PROFIT business certification. The
4.35 refund also applies to any local sales and use tax.

5.1 (b) The tax must be refunded in the manner provided under subdivision 4, paragraph
5.2 (b), subject to the job creation and construction agreement under subdivision 3, paragraph
5.3 (a), clause (3).

5.4 Subd. 8. **Appropriation.** An amount sufficient to pay the refunds under subdivision
5.5 4 is annually appropriated to the commissioner of revenue from the general fund.

5.6 **EFFECTIVE DATE.** This section is effective for taxes payable in 2014 and
5.7 thereafter and for sales and purchases made after July 31, 2013, and thereafter.