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State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 2971

03/12/2014 Authored by Dorholt, Lien, Hortman and Anderson, P., The bill was read for the first time and referred to the Committee on Taxes

A bill for an act

relating to taxation; tax increment financing; increasing the time permitted to expend increments; amending Minnesota Statutes 2012, section 469.1763, subdivisions 3, 4; Minnesota Statutes 2013 Supplement, section 469.1763, subdivision 2.

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

Section 1. Minnesota Statutes 2013 Supplement, section 469.1763, subdivision 2, is amended to read:

Subd. 2. Expenditures outside district. (a) For each tax increment financing district, an amount equal to at least 75 percent of the total revenue derived from tax increments paid by properties in the district must be expended on activities in the district or to pay bonds, to the extent that the proceeds of the bonds were used to finance activities in the district or to pay, or secure payment of, debt service on credit enhanced bonds. For districts, other than redevelopment districts for which the request for certification was made after June 30, 1995, the in-district percentage for purposes of the preceding sentence is 80 percent. Not more than 25 percent of the total revenue derived from tax increments paid by properties in the district may be expended, through a development fund or otherwise, on activities outside of the district but within the defined geographic area of the project except to pay, or secure payment of, debt service on credit enhanced bonds. For districts, other than redevelopment districts for which the request for certification was made after June 30, 1995, the pooling percentage for purposes of the preceding sentence is 20 percent. The revenue derived from tax increments for the district that are expended on costs under section 469.176, subdivision 4h, paragraph (b), may be deducted first before calculating the percentages that must be expended within and without the district.

2.1 (b) In the case of a housing district, a housing project, as defined in section 469.174,
2.2 subdivision 11, is an activity in the district.

2.3 (c) All administrative expenses are for activities outside of the district, except that
2.4 if the only expenses for activities outside of the district under this subdivision are for
2.5 the purposes described in paragraph (d), administrative expenses will be considered as
2.6 expenditures for activities in the district.

2.7 (d) The authority may elect, in the tax increment financing plan for the district,
2.8 to increase by up to ten percentage points the permitted amount of expenditures for
2.9 activities located outside the geographic area of the district under paragraph (a). As
2.10 permitted by section 469.176, subdivision 4k, the expenditures, including the permitted
2.11 expenditures under paragraph (a), need not be made within the geographic area of the
2.12 project. Expenditures that meet the requirements of this paragraph are legally permitted
2.13 expenditures of the district, notwithstanding section 469.176, subdivisions 4b, 4c, and 4j.
2.14 To qualify for the increase under this paragraph, the expenditures must:

2.15 (1) be used exclusively to assist housing that meets the requirement for a qualified
2.16 low-income building, as that term is used in section 42 of the Internal Revenue Code; and

2.17 (2) not exceed the qualified basis of the housing, as defined under section 42(c) of
2.18 the Internal Revenue Code, less the amount of any credit allowed under section 42 of
2.19 the Internal Revenue Code; and

2.20 (3) be used to:

2.21 (i) acquire and prepare the site of the housing;

2.22 (ii) acquire, construct, or rehabilitate the housing; or

2.23 (iii) make public improvements directly related to the housing; or

2.24 (4) be used to develop housing:

2.25 (i) if the market value of the housing does not exceed the lesser of:

2.26 (A) 150 percent of the average market value of single-family homes in that
2.27 municipality; or

2.28 (B) \$200,000 for municipalities located in the metropolitan area, as defined in
2.29 section 473.121, or \$125,000 for all other municipalities; and

2.30 (ii) if the expenditures are used to pay the cost of site acquisition, relocation,
2.31 demolition of existing structures, site preparation, and pollution abatement on one or
2.32 more parcels, if the parcel contains a residence containing one to four family dwelling
2.33 units that has been vacant for six or more months and is in foreclosure as defined in
2.34 section 325N.10, subdivision 7, but without regard to whether the residence is the owner's
2.35 principal residence, and only after the redemption period has expired.

3.1 (e) For a district created within a biotechnology and health sciences industry zone
3.2 as defined in section 469.330, subdivision 6, or for an existing district located within
3.3 such a zone, tax increment derived from such a district may be expended outside of the
3.4 district but within the zone only for expenditures required for the construction of public
3.5 infrastructure necessary to support the activities of the zone, land acquisition, and other
3.6 redevelopment costs as defined in section 469.176, subdivision 4j. These expenditures are
3.7 considered as expenditures for activities within the district.

3.8 (f) The authority under paragraph (d), clause (4), expires on December 31, 2016.
3.9 Increments may continue to be expended under this authority after that date, if they are
3.10 used to pay bonds or binding contracts that would qualify under subdivision 3, paragraph
3.11 (a), if December 31, 2016, is considered to be the last date of the ~~five-year~~ eight-year
3.12 period after certification under that provision.

3.13 **EFFECTIVE DATE.** This section is effective for districts for which the request for
3.14 certification was made after June 30, 2007.

3.15 Sec. 2. Minnesota Statutes 2012, section 469.1763, subdivision 3, is amended to read:

3.16 Subd. 3. **Five-year Eight-year rule.** (a) Revenues derived from tax increments are
3.17 considered to have been expended on an activity within the district under subdivision 2
3.18 only if one of the following occurs:

3.19 (1) before or within ~~five~~ eight years after certification of the district, the revenues are
3.20 actually paid to a third party with respect to the activity;

3.21 (2) bonds, the proceeds of which must be used to finance the activity, are issued and
3.22 sold to a third party before or within ~~five~~ eight years after certification, the revenues are
3.23 spent to repay the bonds, and the proceeds of the bonds either are, on the date of issuance,
3.24 reasonably expected to be spent before the end of the later of (i) the ~~five-year~~ eight-year
3.25 period, or (ii) a reasonable temporary period within the meaning of the use of that term
3.26 under section 148(c)(1) of the Internal Revenue Code, or are deposited in a reasonably
3.27 required reserve or replacement fund;

3.28 (3) binding contracts with a third party are entered into for performance of the
3.29 activity before or within ~~five~~ eight years after certification of the district and the revenues
3.30 are spent under the contractual obligation;

3.31 (4) costs with respect to the activity are paid before or within ~~five~~ eight years after
3.32 certification of the district and the revenues are spent to reimburse a party for payment
3.33 of the costs, including interest on unreimbursed costs; or

4.1 (5) expenditures are made for housing purposes as permitted by subdivision 2,
 4.2 paragraphs (b) and (d), or for public infrastructure purposes within a zone as permitted
 4.3 by subdivision 2, paragraph (e).

4.4 (b) For purposes of this subdivision, bonds include subsequent refunding bonds if
 4.5 the original refunded bonds meet the requirements of paragraph (a), clause (2).

4.6 (c) For a redevelopment district or a renewal and renovation district certified after
 4.7 June 30, 2003, and before April 20, 2009, the five-year periods described in paragraph
 4.8 (a) are extended to ten years after certification of the district. This extension is provided
 4.9 primarily to accommodate delays in development activities due to unanticipated economic
 4.10 circumstances.

4.11 **EFFECTIVE DATE.** This section is effective for districts for which the request for
 4.12 certification was made after June 30, 2007.

4.13 Sec. 3. Minnesota Statutes 2012, section 469.1763, subdivision 4, is amended to read:

4.14 Subd. 4. **Use of revenues for decertification.** (a) In each year beginning with the
 4.15 ~~sixth~~ ninth year following certification of the district, if the applicable in-district percent
 4.16 of the revenues derived from tax increments paid by properties in the district exceeds the
 4.17 amount of expenditures that have been made for costs permitted under subdivision 3, an
 4.18 amount equal to the difference between the in-district percent of the revenues derived from
 4.19 tax increments paid by properties in the district and the amount of expenditures that have
 4.20 been made for costs permitted under subdivision 3 must be used and only used to pay or
 4.21 defease the following or be set aside to pay the following:

4.22 (1) outstanding bonds, as defined in subdivision 3, paragraphs (a), clause (2), and (b);

4.23 (2) contracts, as defined in subdivision 3, paragraph (a), clauses (3) and (4);

4.24 (3) credit enhanced bonds to which the revenues derived from tax increments are
 4.25 pledged, but only to the extent that revenues of the district for which the credit enhanced
 4.26 bonds were issued are insufficient to pay the bonds and to the extent that the increments
 4.27 from the applicable pooling percent share for the district are insufficient; or

4.28 (4) the amount provided by the tax increment financing plan to be paid under
 4.29 subdivision 2, paragraphs (b), (d), and (e).

4.30 (b) The district must be decertified and the pledge of tax increment discharged
 4.31 when the outstanding bonds have been defeased and when sufficient money has been set
 4.32 aside to pay, based on the increment to be collected through the end of the calendar year,
 4.33 the following amounts:

4.34 (1) contractual obligations as defined in subdivision 3, paragraph (a), clauses (3)
 4.35 and (4);

5.1 (2) the amount specified in the tax increment financing plan for activities qualifying
5.2 under subdivision 2, paragraph (b), that have not been funded with the proceeds of bonds
5.3 qualifying under paragraph (a), clause (1); and

5.4 (3) the additional expenditures permitted by the tax increment financing plan for
5.5 housing activities under an election under subdivision 2, paragraph (d), that have not been
5.6 funded with the proceeds of bonds qualifying under paragraph (a), clause (1).

5.7 **EFFECTIVE DATE.** This section is effective for districts for which the request for
5.8 certification was made after June 30, 2007.