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State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 1740

04/08/2013 Authored by Hornstein

The bill was read for the first time and referred to the Committee on Government Operations

04/19/2013 Adoption of Report: Pass as Amended and re-referred to the Committee on Rules and Legislative Administration

1.1 A bill for an act
1.2 relating to transportation; taxes; amending a joint powers board; imposing
1.3 sales tax; providing for allocation of funds; amending Minnesota Statutes
1.4 2012, sections 297A.992; 473.39, subdivisions 1p, 1r, by adding a subdivision;
1.5 proposing coding for new law in Minnesota Statutes, chapter 297A; repealing
1.6 Minnesota Statutes 2012, section 473.39, subdivision 1q.

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

1.8 Section 1. Minnesota Statutes 2012, section 297A.992, is amended to read:

1.9 **297A.992 METROPOLITAN ~~TRANSPORTATION~~ AREA TRANSIT SALES**
1.10 **TAX; TAX, JOINT POWERS BOARD.**

1.11 Subdivision 1. **Definitions.** For purposes of this section, the following terms have
1.12 the meanings given them:

1.13 (1) "metropolitan ~~transportation~~ area" means the counties ~~participating in the joint~~
1.14 ~~powers agreement under subdivision 3;~~

1.15 (2) "~~eligible county~~" means the county of Anoka, Carver, Dakota, Hennepin,
1.16 Ramsey, Scott, or Washington;

1.17 (3) (2) "committee" means the Grant Evaluation and Ranking System (GEARS)
1.18 Committee;

1.19 (4) (3) "minimum guarantee county" means any metropolitan county or eligible
1.20 county that is participating in the joint powers agreement under subdivision 3, whose
1.21 proportion of the annual sales tax revenue under this section collected within that county
1.22 is less than or equal to ~~three~~ four percent;

1.23 (4) "net transit sales tax proceeds" means the total proceeds from the sales and use
1.24 taxes imposed under this section, less the deductions identified under subdivision 8; and

(5) "population" means the population, as defined in section 477A.011, subdivision 3, estimated or established by July 15 of the year prior to the calendar year in which the representatives will serve on the Grant Evaluation and Ranking System Committee established under subdivision 5.

Subd. 2. **Authorization; rates.** (a) Notwithstanding section 297A.99, subdivisions 1, 2, and 3, or 477A.016, or any other law, the board of a county participating in a joint powers agreement as specified in this section shall impose by resolution (1) a transportation sales and use tax at a rate of one-quarter of one percent on retail sales and uses taxable under this chapter, and (2) an excise tax of \$20 per motor vehicle, as defined in section 297B.01, subdivision 11, purchased or acquired from any person engaged in the business of selling motor vehicles at retail, occurring within the jurisdiction of the taxing authority. The taxes authorized are to fund transportation improvements as specified in this section, including debt service on obligations issued to finance such improvements pursuant to subdivision 7.

(b) The tax imposed under this section is not included in determining if the total tax on lodging in the city of Minneapolis exceeds the maximum allowed tax under Laws 1986, chapter 396, section 5, as amended by Laws 2001, First Special Session chapter 5, article 12, section 87, or in determining a tax that may be imposed under any other limitations.

Subd. 2a. **Additional tax; rates.** A local sales tax is imposed in the metropolitan counties, as defined in section 473.121, subdivision 4. In order to maintain the same rate across the region, the tax is imposed in each county as a sales and use tax on retail sales and uses taxable under this chapter, at a rate equal to.....

Subd. 3. **Joint powers agreement.** Before imposing the taxes authorized in subdivision 2, an eligible county must declare by resolution of its county board to be part of the metropolitan transportation area and must enter into a joint powers agreement. The joint powers agreement:

(1) must form a joint powers board, as specified in subdivision 4;

(2) must provide a process that allows any eligible county, by resolution of its county board, to join the joint powers board and impose the taxes authorized in subdivision 2;

(3) may provide for withdrawal of a participating county before final termination of the agreement; and

(4) may provide for a weighted voting system for joint powers board decisions.

Subd. 4. **Joint powers board.** (a) The joint powers board must consist of one or more commissioners of each county ~~that is in the metropolitan transportation area,~~ appointed by its county board, and the chair of the Metropolitan Council, who must have voting rights, subject to subdivision 3, clause (4). The joint powers board has the powers and duties provided in this section and section 471.59.

(b) The joint powers board may utilize no more than ~~three-fourths~~ one-half of one percent of the net transit sales tax proceeds ~~of the taxes imposed under this section~~ for ordinary administrative expenses incurred in carrying out the provisions of this section. Any additional administrative expenses must be paid by the participating counties.

(c) The joint powers board may establish a technical advisory group that is separate from the GEARS Committee. The group must consist of representatives of cities, counties, or public agencies, including the Metropolitan Council. The technical advisory group must be used solely for technical consultation purposes.

(d) The chair of the joint powers board must be a county commissioner who is elected by the board.

Subd. 5. **Grant application and awards; Grant Evaluation and Ranking System (GEARS) Committee process, general requirements.** (a) The joint powers board shall establish a grant application process and identify the amount of available funding for grant awards. Grant applications must be submitted in a form prescribed by the joint powers board. An applicant must provide, in addition to all other information required by the joint powers board, the estimated cost of the project, the amount of the grant sought, possible sources of funding in addition to the grant sought, and identification of any federal funds that will be utilized if the grant is awarded. A grant application seeking transit capital funding must identify the source of money necessary to operate the transit improvement.

(b) The joint powers board shall establish a timeline and procedures for the award of grants, and may award grants only to the state and political subdivisions. The board shall define objective criteria for the award of grants, which must include, but not be limited to, consistency with the most recent version of the transportation policy plan adopted by the Metropolitan Council under section 473.146. The joint powers board shall maximize the availability and use of federal funds in projects funded under this section.

(c) Grants must be funded by the proceeds of the taxes imposed under this section, bonds, notes, or other obligations issued by the joint powers board under subdivision 7.

(d) For grants awarded in each calendar year for 2014 through 2018, the board shall award grants to each minimum guarantee county that is a member of the board, in an amount that is no less than:

(1) one-third of 55 percent; times

(2) the net transit sales tax proceeds for that year; times

(3)(i) the amount of revenue from the state general sales and use taxes under this chapter collected within that county in the previous year, divided by

(ii) the amount of revenue from the state general sales and use taxes under this chapter collected within all metropolitan counties in the previous year.

Subd. 5a. **Grant awards; Grant Evaluation and Ranking System (GEARS)**

Committee. ~~(e)~~ (a) The joint powers board shall establish a GEARS Committee, which must consist of:

(1) one county commissioner from each county ~~that is in the metropolitan transportation area~~, appointed by its county board;

(2) one elected city representative from each county ~~that is in the metropolitan transportation area~~;

(3) one additional elected city representative from each county for every additional 400,000 in population, or fraction of 400,000, in the county that is above 400,000 in population; and

(4) the chair of the Metropolitan Council Transportation Committee.

~~(d)~~ (b) Each city representative must be elected at a meeting of cities in the metropolitan ~~transportation~~ area, which must be convened for that purpose by the Association of Metropolitan Municipalities.

~~(e)~~ (c) The committee shall:

(1) evaluate grant applications following objective criteria established by the joint powers board, and must;

(2) provide to the joint powers board a selection list of transportation projects that includes a priority ranking;

(3) annually evaluate and award grants to local units of government including park districts for construction and maintenance of regional bicycle, trail, and pedestrian infrastructure; and

(4) annually evaluate and award grants to cities for planning activities related to land use and transportation linkages, streetcar development, or bicycle and pedestrian connections.

(d) Grants awarded by the committee under paragraph (c), clauses (3) and (4), are not subject to approval by the board. Annually, the committee shall award grants under those clauses in a total amount that equals no more than 3.75 percent of the net transit sales tax proceeds. Of the grant awards required under this paragraph, at least 80 percent must be for the purposes specified under paragraph (c), clause (3).

(e) The committee may award a grant under paragraph (c), clause (3), only if the project being funded is in compliance with:

(1) a regional nonmotorized transportation system plan developed by the Metropolitan Council; or

(2) a municipal nonmotorized transportation plan, which must provide coordinated development of transportation facilities located in adjacent communities including connections between facilities in each community.

Subd. 5b. Grant awards; consistency with transportation plans. (f) A grant award for a transit project located within the metropolitan area, as defined in section 473.121, subdivision 2, may be funded only after the Metropolitan Council reviews the project for consistency with the transit portion of the Metropolitan Council policy plan and one of the following occurs:

(1) the Metropolitan Council finds the project to be consistent;

(2) the Metropolitan Council initially finds the project to be inconsistent, but after a good faith effort to resolve the inconsistency through negotiations with the joint powers board, agrees that the grant award may be funded; or

(3) the Metropolitan Council finds the project to be inconsistent, and submits the consistency issue for final determination to a panel, which determines the project to be consistent. The panel is composed of a member appointed by the chair of the Metropolitan Council, a member appointed by the joint powers board, and a member agreed upon by both the chair and the joint powers board.

~~(g) Grants must be funded by the proceeds of the taxes imposed under this section, bonds, notes, or other obligations issued by the joint powers board under subdivision 7.~~

~~(h) Notwithstanding the provisions of this section except subdivision 6a, of the revenue collected under this section, the joint powers board shall allocate to the Metropolitan Council, in fiscal years 2012 and 2013, an amount not less than 75 percent of the net cost of operations for those transit ways that were receiving metropolitan sales tax funds through an operating grant agreement on June 30, 2011.~~

~~(i) The Metropolitan Council shall expend any funds allocated under paragraph (h) for the operations of the specified transit ways solely within those counties that are in the metropolitan transportation area.~~

~~(j) Nothing in paragraph (h) or (i) prevents grant awards to the Metropolitan Council for capital and operating assistance for transit ways and park-and-ride facilities.~~

Subd. 6. Allocation of Grant awards; eligible uses. (a) The board must allocate grant awards only for the following transit purposes:

(1) transit way development and operations, consisting of:

(i) capital improvements to transit ways, including, but not limited to, commuter rail rolling stock, light rail vehicles, and transit way buses;

(ii) capital costs for park-and-ride facilities, as defined in section 174.256, subdivision 2;

(iii) feasibility studies, planning, alternatives analyses, environmental studies, engineering, property acquisition for transit way purposes, and construction of transit ways; and

(iv) operating assistance for transit ways; and

(2) as specified under subdivision 5a.

~~(b) The joint powers board must annually award grants to each minimum guarantee county in an amount no less than the amount of sales tax revenue collected within that county.~~

~~(c) No more than 1.25 percent of the total awards may be annually allocated for planning, studies, design, construction, maintenance, and operation of pedestrian programs and bicycle programs and pathways.~~

Subd. 6a. **Priority of fund uses.** The joint powers board shall allocate all revenues from the taxes imposed under this section in conformance with the following priority order:

(1) payment of debt service necessary for the fiscal year on bonds or other obligations issued prior to January 1, 2011, under subdivision 7; and

(2) as otherwise authorized under this section.

Subd. 7. **Bonds.** (a) The joint powers board or any county, acting under a joint powers agreement as specified in this section, may, by resolution, authorize, issue, and sell its bonds, notes, or other obligations for the purpose of funding grants under subdivision 6. The joint powers board or county may also, by resolution, issue bonds to refund the bonds issued pursuant to this subdivision.

(b) The bonds of the joint powers board must be limited obligations, payable solely from or secured by taxes levied under this section.

(c) The bonds of any county may be limited obligations, payable solely from or secured by taxes levied under this section. A county may also pledge its full faith, credit, and taxing power as additional security for the bonds.

(d) Bonds may be issued in one or more series and sold without an election. The bonds shall be secured, bear the interest rate or rates or a variable rate, have the rank or priority, be executed in the manner, be payable in the manner, mature, and be subject to the defaults, redemptions, repurchases, tender options, or other terms, and shall be sold in such manner as the joint powers board, the regional railroad authority, or the county may determine.

(e) The joint powers board or any regional railroad authority or any county may enter into and perform all contracts deemed necessary or desirable by it to issue and secure the bonds, including an indenture of trust with a trustee within or without the state.

(f) Except as otherwise provided in this subdivision, the bonds must be issued and sold in the manner provided under chapter 475.

(g) The joint powers board or any regional railroad authority wholly within the metropolitan transportation area also may authorize, issue, and sell its bonds, notes, or other obligations for the purposes, and in accordance with the procedures, set forth in section 398A.07 to fund grants as provided in subdivision 6. The bonds of any regional railroad authority may be limited obligations, payable solely from or secured by taxes levied under this section. A regional railroad authority may also pledge its taxing powers as additional security for the bonds.

Subd. 7a. **Debt service statement.** The joint powers board shall, by October 1 annually, submit to the commissioner of revenue a debt service statement, which must specify an amount equal to the total amount necessary to pay debt service in the subsequent calendar year on bonds or other obligations issued prior to January 1, 2011, under subdivision 7. The debt service statement must include identification of the amount necessary in each month for the payments.

Subd. 8. **Allocation Remittance of revenues.** After the deductions allowed in section 297A.99, subdivision 11, the commissioner of revenue shall remit the net proceeds of the taxes imposed under this section on a monthly basis, as directed by the joint powers board under this section provided under section 297A.9925.

Subd. 9. **Administration, collection, enforcement.** Except as otherwise provided in this section, the provisions of section 297A.99, subdivisions 4 and 6 to 12a, govern the administration, collection, and enforcement of the tax authorized under this section.

Subd. 10. **Termination of local option taxes.** (a) The taxes imposed under section 297A.99, subdivision 1, subdivision 2 by a county that withdraws from the joint powers agreement pursuant to subdivision 3, clause (3), shall terminate when the county has satisfied its portion, as defined in the joint powers agreement, of all outstanding bonds or obligations entered into while the county was a member of the agreement.

(b) If the joint powers agreement under subdivision 3 is terminated, the taxes imposed under section 297A.99, subdivision 1, subdivision 2, at the time of the agreement termination will terminate when all outstanding bonds or obligations are satisfied. The auditors of the counties in which the taxes are imposed shall see to the administration of this paragraph.

Subd. 11. **Report.** The joint powers board shall report annually by February 1 to the house of representatives and senate chairs and ranking minority members of the legislative committees having jurisdiction over transportation policy and finance concerning the (1) board activities and actions, (2) bonds authorized or issued under subdivision 7, (3) revenues received, and (4) grants awarded.

Subd. 12. **Grant awards to Metropolitan Council.** Any grant award under this section made to the Metropolitan Council must supplement, and must not supplant, operating and capital assistance provided by the state.

EFFECTIVE DATE. This section is effective July 1, 2013, for sales and purchases made after June 30, 2013, except that the imposition of the tax under subdivision 2a shall be on the first day of the calendar quarter beginning at least 60 days after the date of final enactment. This section applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

Sec. 2. **[297A.9925] METROPOLITAN AREA TRANSIT SALES TAX;**
ALLOCATION OF FUNDS.

Subdivision 1. Definitions. For purposes of this section, the following terms have the meanings given them:

(1) "board" means the joints powers board established under section 297A.992; and

(2) "net transit sales tax proceeds" has the meaning given in section 297A.992, subdivision 1.

Subd. 2. Allocation formula. In the manner specified under subdivision 6, the commissioner of revenue shall remit the net transit sales tax proceeds as follows:

(1) the amount specified in the debt service statement under section 297A.992, subdivision 7a, to the joint powers board under section 297A.992;

(2) a base funding level, as follows:

(i) \$66,600,000 in calendar year 2014, and \$78,200,000 in calendar year 2015 and each year thereafter, to the Metropolitan Council for transit operations under chapter 473; and

(ii) \$95,800,000 in calendar year 2014, and \$96,700,000 in calendar year 2015 and each year thereafter, to the board for the purposes specified in this section and section 297A.992; and

(3) the remaining revenues following the allocations under clauses (1) and (2), to the board, the council, or both, as specified in the joint certification under subdivision 2.

Subd. 3. Joint certification. (a) The board and the Metropolitan Council shall annually develop a joint certification for submission to the commissioner of revenue as provided in this subdivision. The joint certification must be separately adopted by the board and by the council.

(b) The commissioner of revenue shall estimate the net transit sales tax proceeds, and by October 15 annually, provide to the board and the council an estimate of allocations under subdivision 2.

9.1 (c) If the commissioner does not receive a joint certification by December 1, the
9.2 commissioner may not remit the proceeds identified under subdivision 2, clause (3),
9.3 except as provided by a legislatively enacted appropriation.

9.4 (d) The joint certification must specify:

9.5 (1) total allocation between the council and the board of estimated net transit sales
9.6 tax proceeds available under the certification, for the following calendar year;

9.7 (2) the total budgeted operations and maintenance costs of each transit way that will
9.8 be in revenue operations during the following calendar year; and

9.9 (3) a base funding level established under paragraph (e), if any.

9.10 (e) Notwithstanding subdivision 1, a joint certification may establish a base funding
9.11 level that supersedes the amounts specified in subdivision 2, clause (2), item (i) or (ii), or
9.12 both.

9.13 (f) A joint certification may not exceed the estimated net transit sales tax proceeds
9.14 less (1) the allocation required under subdivision 2, clause (1); and (2) a base funding level
9.15 under subdivision 2, clause (2), or identified under paragraph (e).

9.16 (g) By December 15 annually, the board shall electronically submit a copy of any
9.17 joint certification to the chairs and ranking minority members of the legislative committees
9.18 with jurisdiction over transportation policy and finance. If the commissioner does not
9.19 receive a joint certification, the commissioner shall, by December 15 of that year, submit
9.20 a notification to the chairs and ranking minority members of the legislative committees
9.21 with jurisdiction over transportation policy and finance.

9.22 Subd. 4. **Uses and priorities; Metropolitan Council.** The Metropolitan Council
9.23 shall use all funds remitted to the council under this section in the following priority order:

9.24 (1) payment of debt service on bonds or other obligations for transit capital, if
9.25 another source of funds for such payment is not otherwise identified;

9.26 (2) continuation of bus and rail transit operations, including but not limited to
9.27 operations and maintenance of all transit ways under revenue operations; and

9.28 (3) transit improvements in accordance with the council's transit planning,
9.29 including but not limited to expansion and upgrades of bus service and related amenities,
9.30 development of arterial bus rapid transit and streetcars as appropriate, and maintenance of
9.31 affordable transit fares.

9.32 Subd. 5. **Uses and priorities; joint powers board.** The board shall use all funds
9.33 remitted to the board under this section as provided in section 297A.992.

9.34 Subd. 6. **Remittance schedule.** The commissioner of revenue shall remit the net
9.35 transit sales tax proceeds on a monthly basis, in amounts that are proportional to the total
9.36 being remitted for the year under subdivision 2, provided that the amount remitted in each

month under subdivision 2, clause (1), may not be less than the amount necessary for that month as specified in the debt service statement under section 297A.992, subdivision 7a. The commissioner may adjust monthly remittance to account for variation between estimated and actual collections, whether during the calendar year in which collections occur or in the following calendar year.

Subd. 7. **Transition.** Notwithstanding subdivision 2, for collections from July 1, 2013, through December 31, 2013, the commissioner of revenue shall remit the net transit sales tax proceeds as follows:

(1) \$33,300,000 to the Metropolitan Council for transit operations under chapter 473; and

(2) \$53,900,000 to the board for the purposes specified in this section and section 297A.992.

EFFECTIVE DATE. This section is effective July 1, 2013, and applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

Sec. 3. Minnesota Statutes 2012, section 473.39, is amended by adding a subdivision to read:

Subd. 6. **Revenue bonds.** (a) In addition to other authority under this section, the council may, by resolution, authorize the issuance and sale of its revenue bonds, notes, or other obligations to provide funds to implement the council's transit capital improvement program and to refund bonds issued under this subdivision.

(b) The bonds shall be sold, issued, and secured in the manner provided in chapter 475 for bonds payable solely from or secured by revenues, and the council shall have the same powers and duties as a municipality and its governing body in issuing bonds under that chapter. The bonds (1) shall be payable from and secured by a pledge of all or any part of revenues receivable to the council from the metropolitan area transit sales tax imposed under section 297A.992 and allocated under section 297A.9925, and associated investment earnings on debt proceeds; (2) shall not, and shall state they do not, represent or constitute a general obligation of the council; and (3) shall not be included in the net debt of any city, county, or other subdivision of the state for the purpose of any net debt limitation. The bonds will be deemed payable wholly from the income of revenue-producing conveniences within the meaning of section 475.58. The proceeds of the bonds may also be used to fund necessary reserves and to pay credit enhancement fees, issuance costs, and other financing costs during the life of the debt.

(c) The bonds may be secured by a bond resolution, or a trust indenture entered into by the council with a corporate trustee within or outside the state, which shall define the

revenues and bond proceeds pledged for the payment and security of the bonds. The pledge shall be a valid charge on the revenues received by the council under section 297A.9925. Neither the state, nor any municipality or political subdivision except the council, nor any member, officer, or employee of the council, is liable on the obligations. No mortgage of or security interest in any tangible real or personal property shall be granted to the bondholders or the trustee, but they shall have a valid security interest in the revenues and bond proceeds received by the council and pledged to the payment of the bonds. In the bond resolution or trust indenture, the council may make such covenants as it determines to be reasonable for the protection of the bondholders, including a covenant to issue general obligation bonds to refund the revenue bonds if and to the extent required to pay principal and interest on the bonds.

EFFECTIVE DATE. This section is effective the day following final enactment, and applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

Sec. 4. Minnesota Statutes 2012, section 473.39, subdivision 1p, is amended to read:

Subd. 1p. **Obligations; additional authority after July 1, 2010.** After July 1, 2010, in addition to other authority in this section, the council may issue certificates of indebtedness, bonds, or other obligations under this section in an amount not exceeding ~~\$34,600,000~~ \$25,900,000 for capital expenditures as prescribed in the council's transit capital improvement program and for related costs, including the costs of issuance and sale of the obligations.

EFFECTIVE DATE. This section is effective the day following final enactment, and applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

Sec. 5. Minnesota Statutes 2012, section 473.39, subdivision 1r, is amended to read:

Subd. 1r. **Obligations.** After July 1, 2012, in addition to other authority under this section, the council may issue certificates of indebtedness, bonds, or other obligations under this section in an amount not exceeding ~~\$39,600,000 for capital expenditures as prescribed in the council's transit capital improvement program and for related costs, including the costs of issuance and sale of the obligations. Of this authorization, up to \$4,200,000 may be made available,~~ to fund capital projects in amounts that would have otherwise been funded using replacement transit service provider reserves that were reduced in 2012 as a result of Laws 2011, First Special Session chapter 3, article 1, section 4.

12.1 **EFFECTIVE DATE.** This section is effective the day following final enactment,
12.2 and applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and
12.3 Washington.

12.4 Sec. 6. **REPEALER.**

12.5 Minnesota Statutes 2012, section 473.39, subdivision 1q, is repealed.

APPENDIX
Repealed Minnesota Statutes: H1740-1

473.39 BORROWING MONEY.

Subd. 1q. **Obligations.** After July 1, 2011, in addition to other authority in this section, the council may issue certificates of indebtedness, bonds, or other obligations under this section in an amount not exceeding \$35,000,000 for capital expenditures as prescribed in the council's transit capital improvement program and for related costs, including the costs of issuance and sale of the obligations.