

1.1 A bill for an act

1.2 relating to economic development; making changes to joint ventures by utilities;
1.3 authorizing redevelopment demolition loans; eliminating a semiannual report;
1.4 amending Minnesota Statutes 2010, sections 116J.555, subdivision 2; 116J.571;
1.5 116J.572; 116J.575, by adding a subdivision; 452.25, subdivisions 2, 3, 5, 6;
1.6 proposing coding for new law in Minnesota Statutes, chapter 116J.

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

1.8 Section 1. Minnesota Statutes 2010, section 116J.555, subdivision 2, is amended to
1.9 read:

1.10 Subd. 2. **Application cycles; reporting to legislature.** (a) In making grants, the
1.11 commissioner shall establish semiannual application deadlines in which grants will be
1.12 authorized from all or part of the available appropriations of money in the account.

1.13 ~~(b) After each semiannual cycle in which grants are awarded, the commissioner shall~~
1.14 ~~report to the environment and natural resources committees of the senate and house of~~
1.15 ~~representatives, the Finance Division of the senate Committee on Environment and Natural~~
1.16 ~~Resources, and the house of representatives Committee on Environment and Natural~~
1.17 ~~Resources finance the grants awarded and appropriate supporting information describing~~
1.18 ~~each grant made. This report must be made within 30 days after the grants are awarded.~~

1.19 ~~(e)~~ (b) The commissioner shall annually report to the ~~legislative committees in~~
1.20 ~~paragraph (b)~~ committees of the senate and house of representatives with jurisdiction over
1.21 environment and natural resources finance on the status of the cleanup projects undertaken
1.22 under grants made under the programs. The commissioner shall include in the annual
1.23 report information on the cleanup and development activities undertaken for the grants
1.24 made in that and previous fiscal years. The commissioner shall make this report no later
1.25 than 120 days after the end of the fiscal year.

2.1 Sec. 2. Minnesota Statutes 2010, section 116J.571, is amended to read:

2.2 **116J.571 CREATION OF ACCOUNTS.**

2.3 Two redevelopment accounts are created, one in the general fund and one in
2.4 the bond proceeds fund. Money ~~in the accounts~~ for the program may be used to make
2.5 grants as provided in section 116J.575 and loans as provided in section 116J.5761 and
2.6 to pay for the commissioner's costs in reviewing applications and making grants and
2.7 loans and is available until spent. The repayment of principal and interest on loans and
2.8 investment income earned on money in the account is deposited in the special revenue
2.9 fund and may be used for making grants and loans and for administrative costs and are
2.10 appropriated for such purposes.

2.11 Sec. 3. Minnesota Statutes 2010, section 116J.572, is amended to read:

2.12 **116J.572 DEFINITIONS.**

2.13 Subdivision 1. **Scope of application.** For purposes of sections 116J.571 to ~~116J.575~~
2.14 116J.5765, the terms in this section have the meanings given.

2.15 Subd. 1a. **Demolition costs.** "Demolition costs" means the costs of demolition,
2.16 destruction, removal and clearance of all structures and other improvements on the project
2.17 site, including interior remedial activities, and proper disposal thereof. As used in this
2.18 subdivision, "structure" has the meaning given it in section 116G.03, subdivision 11.

2.19 Subd. 2. **Development authority.** "Development authority" includes a statutory
2.20 or home rule charter city, county, housing and redevelopment authority, economic
2.21 development authority, or port authority.

2.22 Subd. 2a. **Metropolitan area.** "Metropolitan area" means the seven-county
2.23 metropolitan area, as defined in section 473.121, subdivision 2.

2.24 Subd. 2b. **Municipality.** "Municipality" means the statutory or home rule charter
2.25 city, town, or, in the case of unorganized territory, the county in which the redevelopment
2.26 or project is located.

2.27 Subd. 3. **Redevelopment costs or costs.** "Redevelopment costs" or "costs" means
2.28 the costs of land acquisition, stabilizing unstable soils when infill is required, ~~demolition,~~
2.29 infrastructure improvements, and ponding or other environmental infrastructure,
2.30 demolition costs and costs necessary for adaptive reuse of buildings, including remedial
2.31 activities.

2.32 Sec. 4. Minnesota Statutes 2010, section 116J.575, is amended by adding a subdivision
2.33 to read:

3.1 Subd. 4. **Grant repayment.** If a project fails to substantially provide the public
3.2 benefits listed in the grant application within five years from the date of the grant award,
3.3 the commissioner may require that 100 percent of the grant amount be repaid by the
3.4 development authority over a term not to exceed ten years. The commissioner may
3.5 exercise discretion to require repayment of only a portion of the grant amount taking into
3.6 account the public benefits generated by the completed development.

3.7 **Sec. 5. [116J.5761] LOANS.**

3.8 Subdivision 1. **Authority.** The commissioner may make loans to development
3.9 authorities for projects that meet the criteria under sections 116J.5761 to 116J.5764. The
3.10 commissioner may make a loan for up to 100 percent of the estimated land acquisition and
3.11 demolition costs of the project. The determination whether to make a loan for a project
3.12 is within the discretion of the commissioner, subject to this section, sections 116J.5761
3.13 to 116J.5764, and available unencumbered money in the redevelopment accounts. The
3.14 commissioner's decisions and application of the priorities under this section are not subject
3.15 to judicial review, except for abuse of discretion.

3.16 Subd. 2. **Qualifying projects.** A project qualifies for a loan under this section,
3.17 if the following criteria are met:

3.18 (1) the property and structures are owned by the development authority;

3.19 (2) the structures on the property have been vacant for at least one year;

3.20 (3) the structures constitute a threat to public safety because of inadequate
3.21 maintenance, dilapidation, obsolescence, or abandonment;

3.22 (4) the structures are not listed on the National Register of Historic Places; and

3.23 (5) upon completion of the demolition, the development authority reasonably
3.24 expects that the property will be improved and these improvements will result in economic
3.25 development benefits to the municipality.

3.26 **Sec. 6. [116J.5762] LOAN APPLICATIONS.**

3.27 Subdivision 1. **Application required.** To obtain a demolition loan, a development
3.28 authority shall apply to the commissioner. The governing body of the municipality must
3.29 approve the application by resolution.

3.30 Subd. 2. **Required content.** The commissioner shall prescribe and provide the
3.31 application form. The application must include at least the following information:

3.32 (1) identification of the property;

3.33 (2) proof of ownership by the development authority;

- 4.1 (3) a description of how the structures on the property constitute a threat to public
4.2 safety, are functionally obsolete, or are economically unfeasible to repair;
- 4.3 (4) length of vacancy;
- 4.4 (5) a detailed estimate, along with supporting evidence, of the total demolition
4.5 costs for the project;
- 4.6 (6) evidence that the structures on the property are not listed on the National Register
4.7 of Historic Places;
- 4.8 (7) as assessment of the development potential or likely use of the property after
4.9 completion of the demolition plan;
- 4.10 (8) the current appraised or assessed value of the property;
- 4.11 (9) financial documentation necessary for loan underwriting;
- 4.12 (10) other sources of funding if the total estimated demolition costs exceed the
4.13 loan amount;
- 4.14 (11) the proposed source of funds to be used for repayment of the loan;
- 4.15 (12) information showing the applicant's financial condition and ability to repay
4.16 the loan;
- 4.17 (13) the proposed term and principal repayment schedule for the loan;
- 4.18 (14) the statutory authorization for the applicant to issue bonds, together with a
4.19 statement that the statutory provision authorizes the use of proceeds of such bonds to pay
4.20 demolition costs and secure the loan; and
- 4.21 (15) any additional information the commissioner prescribes.

4.22 **Sec. 7. [116J.5763] PRIORITIES.**

4.23 Subdivision 1. **Priorities.** (a) If applications for loans exceed the available
4.24 appropriations, loans shall be made for projects that, in the commissioner's judgment,
4.25 provide the highest return in public benefits for the public costs incurred. "Public benefits"
4.26 include health, safety and other environmental benefits, blight reduction including
4.27 the property's potential for improved economic vitality, functionality and aesthetics,
4.28 community stabilization, crime reduction, reduced maintenance costs, and the potential
4.29 for future development. In making this judgment, the commissioner shall consider the
4.30 following:

- 4.31 (1) the extent to which the existing property conditions threaten public safety;
- 4.32 (2) the length of vacancy of the property;
- 4.33 (3) the development potential of the property;
- 4.34 (4) the proximity of the property to existing sufficient public infrastructure;
- 4.35 (5) the applicant's financial condition and ability to repay the loan.

5.1 (b) The factors in paragraph (a) are not listed in a rank order or priority; rather, the
5.2 commissioner may weigh each factor, depending upon the facts and circumstances, as
5.3 the commissioner considers appropriate. The commissioner may consider other factors
5.4 that affect the net return of public benefits.

5.5 Subd. 2. **Application cycle.** The commissioner shall establish semiannual
5.6 application deadlines in which loans will be authorized from available money in the
5.7 accounts.

5.8 **Sec. 8. [116J.5764] LOAN TERMS AND CONDITIONS.**

5.9 Subdivision 1. **Terms.** Loans to development authorities for demolition costs may
5.10 be made by the commissioner subject to the following terms and conditions:

5.11 (1) the agreement to repay the loan must be a general obligation of the development
5.12 authority, payable primarily from a dedicated source of revenue, and the development
5.13 authority must deliver its bond or note to the commissioner to secure the loan;

5.14 (2) the term of the loan may not exceed 15 years;

5.15 (3) the loan shall bear interest at a rate equal to two percent, but interest will not
5.16 accrue during the first two years of the loan term;

5.17 (4) the development authority shall make semiannual interest payments and annual
5.18 principal payments beginning in the third year of the loan until the end of the term;

5.19 (5) the principal amount of a loan may not exceed \$1,000,000;

5.20 (6) loan proceeds shall be disbursed for eligible demolition costs as incurred or
5.21 paid by borrower and upon submission of invoices and other supporting documentation
5.22 satisfactory to the commissioner;

5.23 (7) an eligible borrower shall establish a dedicated source of revenue for repayment
5.24 of the loan.

5.25 Subd. 2. **Modification of loan terms.** The commissioner has the discretion to
5.26 consent to the modification of the rate of interest, time of payment, installment of principal
5.27 or interest, or other term of a loan made under sections 116J.5761 to 116J.5764.

5.28 Subd. 3. **Forgiveness.** The commissioner may forgive principal of the loan and
5.29 interest accrued but unpaid thereon, if any, up to 50 percent of the original loan amount,
5.30 not to exceed the costs of demolition, upon completion of the redevelopment plan, if the
5.31 project would otherwise have received grant funding in the most recent semiannual grant
5.32 round, based on the priorities in section 116J.575.

5.33 **Sec. 9. [116J.5765] NONLIABILITY.**

6.1 The state shall have no responsibility or liability relating to or arising out of
6.2 activities at the site of a project solely by reason of the making of a grant or loan by the
6.3 commissioner under sections 116J.5761 to 116J.5764.

6.4 Sec. 10. Minnesota Statutes 2010, section 452.25, subdivision 2, is amended to read:

6.5 Subd. 2. **Definitions.** For purposes of this section:

6.6 (a) "City" means a statutory or home rule charter city, section 410.015 to the
6.7 contrary notwithstanding.

6.8 (b) "Cooperative association" means a cooperative association organized under
6.9 chapter 308A.

6.10 (c) "Governing body" means (1) the city council in a city that operates a municipal
6.11 utility, or (2) a board, commission, or body empowered by law, city charter, or ordinance
6.12 or resolution of the city council to control and operate the municipal utility.

6.13 (d) "Investor-owned utility" means an entity that provides utility services to the
6.14 public under chapter 216B and that is owned by private persons.

6.15 (e) "Municipal power agency" means an organization created under sections 453.51
6.16 to 453.62.

6.17 (f) "Municipal utility" means a utility owned, operated, or controlled by a city to
6.18 provide utility services.

6.19 (g) "Public utility" or "utility" means a provider of electric, gas, or water facilities
6.20 or services or an entity engaged in other similar or related operations authorized by law
6.21 or charter.

6.22 Sec. 11. Minnesota Statutes 2010, section 452.25, subdivision 3, is amended to read:

6.23 Subd. 3. **Authority.** (a) Upon the approval of its elected utilities commission or, if
6.24 there be none, its city council, a municipal utility may enter into a joint venture with other
6.25 municipal utilities, municipal power agencies, cooperative associations, ~~or~~ investor-owned
6.26 utilities, or federally recognized Indian tribes to provide utility services. Retail electric
6.27 utility services provided by a joint venture must be within the boundaries of each utility's
6.28 exclusive electric service territory as shown on the map of service territories maintained
6.29 by the department of commerce. The terms and conditions of the joint venture are
6.30 subject to ratification by the governing bodies of the respective utilities and may include
6.31 the formation of a corporate or other separate legal entity with an administrative and
6.32 governance structure independent of the respective utilities.

6.33 (b) A corporate or other separate legal entity, if formed:

7.1 (1) has the authority and legal capacity and, in the exercise of the joint venture, the
7.2 powers, privileges, responsibilities, and duties authorized by this section;

7.3 (2) is subject to the laws and rules applicable to the organization, internal
7.4 governance, and activities of the entity;

7.5 (3) in connection with its property and affairs and in connection with property within
7.6 its control, may exercise any and all powers that may be exercised by a natural person
7.7 or a private corporation or other private legal entity in connection with similar property
7.8 and affairs;

7.9 (4) a joint venture that does not include an investor-owned utility may elect to be
7.10 deemed a municipal utility or a cooperative association for purposes of chapter 216B or
7.11 other federal or state law regulating utility operations; and

7.12 (5) for a joint venture that includes an investor-owned utility, the commission has
7.13 authority over the activities, services, and rates of the joint venture, and may exercise that
7.14 authority, to the same extent the commission has authority over the activities, services,
7.15 and rates of the investor-owned utility itself.

7.16 (c) Any corporation, if formed, must comply with section 465.719, subdivisions 9,
7.17 10, 11, 12, 13, and 14. The term "political subdivision," as it is used in section 465.719,
7.18 shall refer to the city council of a city.

7.19 Sec. 12. Minnesota Statutes 2010, section 452.25, subdivision 5, is amended to read:

7.20 Subd. 5. **Powers.** (a) A joint venture under this section has the powers, privileges,
7.21 responsibilities, and duties of the separate utilities entering into the joint venture as the
7.22 joint venture agreement may provide, including the powers under paragraph (c), except
7.23 that:

7.24 (1) with respect to retail electric utility services, a joint venture shall not enlarge or
7.25 extend the service territory served by the joint venture by virtue of the authority granted in
7.26 sections 216B.44, 216B.45, and 216B.47;

7.27 (2) a joint venture may extend service to an existing connected load of 2,000
7.28 kilowatts or more, pursuant to section 216B.42, when the load is outside of the assigned
7.29 service area of the joint venture, or of the electric utilities party to the joint venture, only if
7.30 the load is already being served by one of the electric utilities party to the joint venture; and

7.31 (3) a privately owned utility, as defined in section 216B.02, may extend service
7.32 to an existing connected load of 2,000 kilowatts or more, pursuant to section 216B.42,
7.33 when the load is located within the assigned service territory of the joint venture, or of
7.34 the electric utilities party to the joint venture, only if the load is already being served
7.35 by that privately owned utility.

8.1 (b) The limitations of paragraph (a), clauses (1) to (3), do not apply if written
8.2 consent to the action is obtained from the electric utility assigned to and serving the
8.3 affected service territory or connected load.

8.4 (c) Joint venture powers include, but are not limited to, the authority to:

8.5 (1) finance, own, acquire, construct, and operate facilities necessary to provide
8.6 utility services to retail customers of the joint venture, including generation, transmission,
8.7 storage and distribution facilities, and like facilities used in other utility services;

8.8 (2) combine assigned service territories, in whole or in part, upon notice to, hearing
8.9 by, and approval of the public utilities commission;

8.10 (3) serve customers in the utilities' service territories or in the combined service
8.11 territory;

8.12 (4) combine, share, or employ administrative, managerial, operational, or other staff
8.13 if combining or sharing will not degrade safety, reliability, or customer service standards;

8.14 (5) provide for joint administrative functions, such as meter reading and billings;

8.15 (6) purchase or sell utility services at wholesale for resale to customers;

8.16 (7) provide conservation programs, other utility programs, and public interest
8.17 programs, such as cold weather shutoff protection and conservation spending programs,
8.18 as required by law and rule; and

8.19 (8) participate as the parties deem necessary in providing utility services with other
8.20 municipal utilities, cooperative utilities, investor-owned utilities, federally recognized
8.21 Indian tribes, or other entities, public or private.

8.22 (d) Notwithstanding any contrary provision within this section, a joint venture
8.23 formed under this section may engage in wholesale utility services unless the municipal
8.24 utility, municipal power agency, cooperative association, ~~or~~ investor-owned utility, or
8.25 federally recognized Indian tribe party to the joint venture is prohibited under current law
8.26 from conducting that activity; but, in any case, the joint venture may provide wholesale
8.27 services to a municipal utility, a cooperative association, ~~or~~ an investor-owned utility, or a
8.28 federally recognized Indian tribe that is party to the joint venture.

8.29 (e) This subdivision does not limit the authority of a joint venture to exercise powers
8.30 of eminent domain for other utility purposes to the same extent as is permitted of those
8.31 utilities party to the joint venture.

8.32 Sec. 13. Minnesota Statutes 2010, section 452.25, subdivision 6, is amended to read:

8.33 Subd. 6. **Construction.** (a) The powers conferred by this section are in addition
8.34 to the powers conferred by other law or charter. A joint venture under this section, and
8.35 a municipal utility with respect to any joint venture under this section, have the powers

9.1 necessary to effect the intent and purpose of this section, including, but not limited to, the
9.2 expenditure of public funds and the transfer of real or personal property in accordance
9.3 with the terms and conditions of the joint venture and the joint venture agreement. This
9.4 section is complete in itself with respect to the formation and operation of a joint venture
9.5 under this section and with respect to a municipal utility, a cooperative association, or an
9.6 investor-owned utility party to a joint venture related to their creation of and dealings
9.7 with the joint venture, without regard to other laws or city charter provisions that do not
9.8 specifically address or refer to this section or a joint venture created under this section.

9.9 (b) This section must not be construed to supersede or modify:

9.10 (1) the power of a city council conferred by charter to overrule or override any action
9.11 of a governing body other than the actions of the joint venture;

9.12 (2) chapter 216B;

9.13 (3) any referendum requirements applicable to the creation of a new electric utility
9.14 by a municipality under section 216B.46 or 216B.465; or

9.15 (4) any powers, privileges, or authority or any duties or obligations of a municipal
9.16 utility, municipal power agency, ~~or~~ cooperative association, or federally recognized
9.17 Indian tribe acting as a separate legal entity without reference to a joint venture created
9.18 under this section.