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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 2979

03/20/2023 Authored by Coulter and Youakim The bill was read for the first time and referred to the Committee on Taxes

1.1 A bill for an act
1.2 relating to taxation; local sales and use; clarifying local resolution submission and
1.3 referendum requirements for imposing a new local sales tax or modifying an
1.4 existing local sales tax; imposing a nexus requirement between nonresidents and
1.5 the project to be funded; amending Minnesota Statutes 2022, sections 297A.99,
1.6 subdivisions 1, 2, 3; 469.190, subdivision 7.

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

1.8 Section 1. Minnesota Statutes 2022, section 297A.99, subdivision 1, is amended to read:

1.9 Subdivision 1. Authorization; scope. (a) A political subdivision of this state may impose
1.10 a general sales tax (1) under section 297A.992, (2) under section 297A.993, (3) if permitted
1.11 by special law, or (4) if the political subdivision enacted and imposed the tax before January
1.12 1, 1982, and its predecessor provision.

1.13 (b) This section governs the imposition of a general sales tax by the political subdivision.

1.14 The provisions of this section preempt the provisions of any special law:

1.15 (1) enacted before June 2, 1997, or

1.16 (2) enacted on or after June 2, 1997, that does not explicitly exempt the special law
1.17 provision from this section's rules by reference.

1.18 (c) This section does not apply to or preempt a sales tax on motor vehicles. Beginning
1.19 July 1, 2019, no political subdivision may impose a special excise tax on motor vehicles
1.20 unless it is imposed under section 297A.993.

1.21 (d) A political subdivision may not advertise or expend funds for the promotion of a
1.22 referendum to support imposing a local sales tax and.

2.1 (e) Notwithstanding paragraph (d), a political subdivision may only spend funds related
 2.2 to imposing a local sales tax to:

2.3 (1) conduct the referendum;

2.4 (2) disseminate information included in the resolution adopted and submitted under
 2.5 subdivision 2, but only if the disseminated information includes a list of specific projects
 2.6 and the cost of each individual project;

2.7 (3) provide notice of, and conduct public forums at which proponents and opponents on
 2.8 the merits of the referendum are given equal time to express their opinions on the merits of
 2.9 the referendum;

2.10 (4) provide facts and data on the impact of the proposed local sales tax on consumer
 2.11 purchases; and

2.12 (5) provide facts and data related to the individual programs and projects to be funded
 2.13 with the local sales tax.

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

2.15 Sec. 2. Minnesota Statutes 2022, section 297A.99, subdivision 2, is amended to read:

2.16 Subd. 2. **Local resolution before application for authority.** ~~(a) Before the governing~~
 2.17 ~~body of a political subdivision requests legislative approval to impose a local sales tax~~
 2.18 ~~authorized by a special law, it shall adopt a resolution indicating its approval of the tax. The~~
 2.19 ~~resolution must include the following information:~~ The governing body of a political
 2.20 subdivision seeking legislative approval to either impose a new local sales tax authorized
 2.21 by special law or modify an existing local sales tax authorized by special law must adopt a
 2.22 resolution indicating the governing body's approval of the tax each year the governing body
 2.23 requests legislative approval. The resolution must include the following information:

2.24 (1) the proposed tax rate;

2.25 (2) a detailed description of no more than five capital projects that will be funded with
 2.26 revenue from the tax;

2.27 (3) documentation of the regional significance of each project, including the share of
 2.28 the economic benefit to or use of each project by persons residing, or businesses located,
 2.29 outside of the jurisdiction;

2.30 (4) the amount of local sales tax revenue that would be used for each project and the
 2.31 estimated time needed to raise that amount of revenue; ~~and~~

3.1 (5) the total revenue that will be raised for all projects before the tax expires, and the
3.2 estimated length of time that the tax will be in effect if all proposed projects are funded;
3.3 and

3.4 (6) a description of the nexus between the nonresident users of a project and the payment
3.5 of the tax, as required in paragraph (e).

3.6 (b) ~~The jurisdiction seeking authority to impose a local sales tax by special law~~ must
3.7 submit the resolution in paragraph (a) along with underlying documentation indicating how
3.8 the benefits under paragraph (a), clause (3), were determined, to the chairs and ranking
3.9 minority members of the ~~legislative~~ committees of the house of representatives and senate
3.10 with jurisdiction over taxes no later than January 31 of the each year in which the jurisdiction
3.11 is seeking a special law authorizing the tax. The jurisdiction must submit an amended
3.12 resolution if, after meeting the requirements of this paragraph, the jurisdiction seeks to:

3.13 (1) add a project that will be funded with the revenue from the tax;

3.14 (2) increase the amount that will be used for any project;

3.15 (3) increase the total revenue raised for all projects before the tax expires; or

3.16 (4) increase the estimated length of time that the tax will be in effect if all proposed
3.17 projects are funded.

3.18 (c) The special legislation granting or modifying local sales tax authority is not required
3.19 to allow funding for all projects listed in the resolution with the revenue from the local sales
3.20 tax, but must not include any projects not contained in the resolution.

3.21 (d) For purposes of this section, a "capital project" or "project" means:

3.22 (1) a single building or structure including associated infrastructure needed to safely
3.23 access or use the building or structure;

3.24 (2) improvements within a single park or named recreation area; or

3.25 (3) a contiguous trail.

3.26 (e) The resolution required in paragraph (a) must also include a description of the nexus
3.27 between the nonresident users of a project and the payment of tax. Nexus exists if two of
3.28 the following requirements are met:

3.29 (1) a significant number of the users of the project will be nonresidents of the political
3.30 subdivision imposing the tax;

3.31 (2) the project includes a unique or uncommon characteristic;

4.1 (3) the project is part of a regional or statewide network or system for providing facilities
 4.2 or services;

4.3 (4) the project promotes an activity having a duration long enough to encourage retail
 4.4 activity incident to the project in the political subdivision imposing the tax; and

4.5 (5) the project includes improvements or amenities to facilities that increase the project's
 4.6 capacity to serve visitors at a volume that exceeds the capacity for facilities that serve a
 4.7 local population, including but not limited to heating, ventilation, and air conditioning
 4.8 systems, parking facilities including accessibility upgrades, and other improvements
 4.9 necessary for compliance with state building codes for the improved facilities.

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

4.11 Sec. 3. Minnesota Statutes 2022, section 297A.99, subdivision 3, is amended to read:

4.12 Subd. 3. **Legislative authority required before voter approval; requirements for**
 4.13 **adoption, use, termination.** (a) A political subdivision must receive legislative authority
 4.14 to impose or modify a local sales tax before submitting the tax for approval by voters of the
 4.15 political subdivision. Imposition or modification of a local sales tax is subject to approval
 4.16 by voters of the political subdivision at a general election. The election must be conducted
 4.17 ~~at a general election~~ on the first Tuesday after the first Monday in November within the
 4.18 two-year period after the governing body of the political subdivision has received authority
 4.19 to impose or modify the tax. If the authorizing legislation ~~allows~~ authorizes or modifies the
 4.20 ~~tax to be imposed~~ for more than one project, ~~there must be~~ the political subdivision is not
 4.21 required to present each project separately on the ballot. The political subdivision may
 4.22 present a separate question approving the use of the tax revenue for each project. Regardless
 4.23 of whether the ballot presents a separate question for each project, the question must state
 4.24 the project or projects proposed to be funded with the tax, the amount for each project
 4.25 proposed to be funded with the tax, and the estimated length of time the tax will be in effect.
 4.26 Notwithstanding the authorizing legislation or special law modifying the tax, a project that
 4.27 is not approved by the voters may not be funded with the local sales tax revenue and the
 4.28 termination date of the tax set in the authorizing legislation or special law modifying the
 4.29 tax must be reduced proportionately based on the share of that project's cost to the total
 4.30 costs of all projects included in the authorizing legislation or special law modifying the tax.

4.31 (b) The proceeds of the tax must be dedicated exclusively to payment of the construction
 4.32 and rehabilitation costs and associated bonding costs related to the specific capital
 4.33 improvement projects that were approved by the voters under paragraph (a).

5.1 (c) The tax must terminate after the revenues raised are sufficient to fund the projects
5.2 approved by the voters under paragraph (a).

5.3 (d) After a sales tax imposed by a political subdivision has expired or been terminated,
5.4 the political subdivision is prohibited from imposing a local sales tax for a period of one
5.5 year.

5.6 (e) Notwithstanding paragraph (a), if a political subdivision received voter approval to
5.7 seek authority for a local sales tax at the November 6, 2018, general election and is granted
5.8 authority to impose a local sales tax before January 1, 2021, the tax may be imposed without
5.9 an additional referendum provided that it meets the requirements of subdivision 2 and the
5.10 list of specific projects contained in the resolution does not conflict with the projects listed
5.11 in the approving referendum.

5.12 (f) If a tax is terminated because sufficient revenues have been raised, any amount of
5.13 tax collected under subdivision 9, after sufficient revenues have been raised and before the
5.14 quarterly termination required under subdivision 12, paragraph (a), that is greater than the
5.15 average quarterly revenues collected over the immediately preceding 12 calendar months
5.16 must be retained by the commissioner for deposit in the general fund.

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

5.18 Sec. 4. Minnesota Statutes 2022, section 469.190, subdivision 7, is amended to read:

5.19 Subd. 7. **Collection.** The statutory or home rule charter city, town, or county when the
5.20 county board is acting as a town board with respect to an unorganized territory may agree
5.21 with the commissioner of revenue that a tax imposed pursuant to this section shall be
5.22 collected by the commissioner together with the tax imposed by chapter 297A, and subject
5.23 to the same interest, penalties, and other rules and that its proceeds, less the cost of collection,
5.24 shall be remitted to the city.

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