

**SENATE
STATE OF MINNESOTA
NINETIETH SESSION**

S.F. No. 477

(SENATE AUTHORS: REST)

DATE
01/30/2017

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Introduction and first reading
Referred to Taxes

OFFICIAL STATUS

1.1 A bill for an act
1.2 relating to tax increment financing; making various technical and minor policy
1.3 changes; amending Minnesota Statutes 2016, sections 469.1763, subdivisions 1,
1.4 2, 3; 469.178, subdivision 7.

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

1.6 Section 1. Minnesota Statutes 2016, section 469.1763, subdivision 1, is amended to read:

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

1.9 (b) "Activities" means acquisition of property, clearing of land, site preparation, soils
1.10 correction, removal of hazardous waste or pollution, installation of utilities, construction
1.11 of public or private improvements, and other similar activities, but only to the extent that
1.12 tax increment revenues may be spent for such purposes under other law.

1.13 (c) "Third party" means an entity other than (1) the person receiving the benefit of
1.14 assistance financed with tax increments, or (2) the municipality or the development authority
1.15 or other person substantially under the control of the municipality.

1.16 (d) "Revenues derived from tax increments paid by properties in the district" means only
1.17 tax increment as defined in section 469.174, subdivision 25, clause (1), and does not include
1.18 tax increment as defined in section 469.174, subdivision 25, clauses (2), ~~(3)~~, and ~~(4)~~ to (5).

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

2.1 Sec. 2. Minnesota Statutes 2016, section 469.1763, subdivision 2, is amended to read:

2.2 Subd. 2. **Expenditures outside district.** (a) For each tax increment financing district,
2.3 an amount equal to at least 75 percent of the total revenue derived from tax increments paid
2.4 by properties in the district must be expended on activities in the district or to pay bonds,
2.5 to the extent that the proceeds of the bonds were used to finance activities in the district or
2.6 to pay, or secure payment of, debt service on credit enhanced bonds. For districts, other
2.7 than redevelopment districts for which the request for certification was made after June 30,
2.8 1995, the in-district percentage for purposes of the preceding sentence is 80 percent. Not
2.9 more than 25 percent of the total revenue derived from tax increments paid by properties
2.10 in the district may be expended, through a development fund or otherwise, on activities
2.11 outside of the district but within the defined geographic area of the project except to pay,
2.12 or secure payment of, debt service on credit enhanced bonds. For districts, other than
2.13 redevelopment districts for which the request for certification was made after June 30, 1995,
2.14 the pooling percentage for purposes of the preceding sentence is 20 percent. The ~~revenue~~
2.15 revenues derived from tax increments ~~for~~ paid by properties in the district that are expended
2.16 on costs under section 469.176, subdivision 4h, paragraph (b), may be deducted first before
2.17 calculating the percentages that must be expended within and without the district.

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

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

2.24 (d) The authority may elect, in the tax increment financing plan for the district, to increase
2.25 by up to ten percentage points the permitted amount of expenditures for activities located
2.26 outside the geographic area of the district under paragraph (a). As permitted by section
2.27 469.176, subdivision 4k, the expenditures, including the permitted expenditures under
2.28 paragraph (a), need not be made within the geographic area of the project. Expenditures
2.29 that meet the requirements of this paragraph are legally permitted expenditures of the district,
2.30 notwithstanding section 469.176, subdivisions 4b, 4c, and 4j. To qualify for the increase
2.31 under this paragraph, the expenditures must:

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

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

3.4 (3) be used to:

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

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

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

3.8 (4) be used to develop housing:

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

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

3.11 or

3.12 (B) \$200,000 for municipalities located in the metropolitan area, as defined in section

3.13 473.121, or \$125,000 for all other municipalities; and

3.14 (ii) if the expenditures are used to pay the cost of site acquisition, relocation, demolition
 3.15 of existing structures, site preparation, and pollution abatement on one or more parcels, if
 3.16 the parcel contains a residence containing one to four family dwelling units that has been
 3.17 vacant for six or more months and is in foreclosure as defined in section 325N.10, subdivision
 3.18 7, but without regard to whether the residence is the owner's principal residence, and only
 3.19 after the redemption period has expired.

3.20 (e) The authority under paragraph (d), clause (4), expires on December 31, 2016.

3.21 Increments may continue to be expended under this authority after that date, if they are used
 3.22 to pay bonds or binding contracts that would qualify under subdivision 3, paragraph (a), if
 3.23 December 31, 2016, is considered to be the last date of the five-year period after certification
 3.24 under that provision.

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

3.26 Sec. 3. Minnesota Statutes 2016, section 469.1763, subdivision 3, is amended to read:

3.27 Subd. 3. **Five-year rule.** (a) Revenues derived from tax increments paid by properties
 3.28 in the district are considered to have been expended on an activity within the district under
 3.29 subdivision 2 only if one of the following occurs:

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

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

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

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

4.14 (5) expenditures are made for housing purposes as permitted by subdivision 2, paragraphs
 4.15 (b) and (d), or for public infrastructure purposes within a zone as permitted by subdivision
 4.16 2, paragraph (e).

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

4.19 (c) For a redevelopment district or a renewal and renovation district certified after June
 4.20 30, 2003, and before April 20, 2009, the five-year periods described in paragraph (a) are
 4.21 extended to ten years after certification of the district. For a redevelopment district certified
 4.22 after April 20, 2009, and before June 30, 2012, the five-year periods described in paragraph
 4.23 (a) are extended to eight years after certification of the district. This extension is provided
 4.24 primarily to accommodate delays in development activities due to unanticipated economic
 4.25 circumstances.

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

4.27 Sec. 4. Minnesota Statutes 2016, section 469.178, subdivision 7, is amended to read:

4.28 Subd. 7. **Interfund loans.** (a) The authority or municipality may advance or loan money
 4.29 to finance expenditures under section 469.176, subdivision 4, from its general fund or any
 4.30 other fund under which it has legal authority to do so.

4.31 (b) Not later than 60 days after money is transferred, advanced, or spent, whichever is
 4.32 earliest, the loan or advance must be authorized; by resolution of the governing body or of

5.1 the authority, whichever has jurisdiction over the fund from which the advance or loan is
5.2 authorized, ~~before money is transferred, advanced, or spent, whichever is earliest.~~

5.3 (c) The resolution may generally grant to the municipality or the authority the power to
5.4 make interfund loans under one or more tax increment financing plans or for one or more
5.5 districts. The resolution may be adopted before or after the adoption of the tax increment
5.6 financing plan or the creation of the tax increment financing district from which the advance
5.7 or loan is to be repaid.

5.8 (d) The terms and conditions for repayment of the loan must be provided in writing and
5.9 The written terms and conditions may be in any form, but must include, at a minimum, the
5.10 principal amount, the interest rate, and maximum term. Written terms may be modified or
5.11 amended in writing by the municipality or the authority before the latest decertification of
5.12 any tax increment financing district from which the interfund loan is to be repaid. The
5.13 maximum rate of interest permitted to be charged is limited to the greater of the rates
5.14 specified under section 270C.40 or 549.09 as of the date the loan or advance is authorized,
5.15 unless the written agreement states that the maximum interest rate will fluctuate as the
5.16 interest rates specified under section 270C.40 or 549.09 are from time to time adjusted.
5.17 Loans or advances may be structured as draw-down or line-of-credit obligations of the
5.18 lending fund.

5.19 (e) The authority shall report in the annual report submitted under section 469.175,
5.20 subdivision 6:

5.21 (1) the amount of any interfund loan or advance made in a calendar year; and

5.22 (2) any amendment of an interfund loan or advance made in a calendar year.

5.23 **EFFECTIVE DATE.** This section is effective the day following final enactment and
5.24 applies to all districts, regardless of when the request for certification was made.