

CHAPTER 289—H.F.No. 1326

An act relating to energy; authorizing loans to municipalities for energy conservation investments and authorizing repayment of those loans; authorizing issuance of bonds; appropriating money; amending Minnesota Statutes 1986, sections 116J.37; 275.50, subdivision 5; 471.65; and 475.51, subdivision 4.

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

Section 1. Minnesota Statutes 1986, section 116J.37, is amended to read:

116J.37 ENERGY CONSERVATION INVESTMENT LOANS.

Subdivision 1. **DEFINITIONS.** In this section:

(a) "Commissioner" means the commissioner of energy and economic development. Upon passage of legislation creating a body known as the Minnesota energy and economic development authority, the duties assigned to the commissioner in this section are delegated to the authority.

(b) "Maxi-audit" ~~has the meaning given in section 116J.06, subdivision 12~~ means a detailed engineering analysis of energy-saving improvements to existing buildings or stationary energy-using systems, including (1) modifications to building structures; (2) heating, ventilating, and air conditioning systems; (3) operation practices; (4) lighting; and (5) other factors that relate to energy use. The primary purpose of the engineering analysis is to quantify the economic and engineering feasibility of energy-saving improvements that require capital expenditures or major operational modifications.

(c) "Energy conservation investments" mean all capital expenditures that are associated with conservation measures identified in a maxi-audit and that have a ten-year or less payback period. Public school districts that received a federal institutional building grant in 1984 to convert a heating system to wood, and that apply for an energy conservation investment loan to match a federal grant for wood conversion, shall be allowed to calculate payback of conservation measures based on the costs of the traditional fuel in use prior to the wood conversion.

(d) "Municipality" means any county, statutory or home rule charter city, town, school district, or any combination of those units operating under an agreement to jointly undertake projects authorized in this section.

Subd. 2. **ELIGIBILITY.** The commissioner shall approve loans to ~~school districts~~ municipalities for energy conservation investments. A loan may be made to a ~~school district~~ municipality that has demonstrated that it has complied with all the appropriate provisions of this section and has made adequate provisions to assure proper and efficient operation of the ~~school~~ municipal facilities after improvements and modifications are completed.

Subd. 3. **APPLICATION.** Application for a loan to be made pursuant to

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this section shall be made by a ~~school district~~ municipality to the commissioner on a form the commissioner prescribes by rule. The commissioner shall review each application to determine:

- (a) whether or not the ~~district's~~ municipality's proposal is complete;
- (b) whether the project is eligible for a loan;
- (c) the amount of the loan for which the project is eligible; and
- (d) the means by which the ~~district~~ municipality proposes to finance the project including:
 - (1) a loan authorized by this section;
 - (2) a grant of money appropriated by state law;
 - (3) a grant to the ~~district~~ municipality by an agency of the federal government within the amount of money then appropriated to that agency; or
 - (4) the appropriation of other money of the ~~district~~ municipality to an account for the construction of the project.

Subd. 4. **LOANS.** The commissioner shall approve loans to ~~school districts~~ municipalities on the following conditions:

(a) A ~~district~~ municipality must demonstrate ~~that all audit activities for a given building or project have been completed;~~ that the project is economically feasible, and that it has made adequate provisions to assure proper and efficient operation of the facility once the project is completed.

(b) A loan made pursuant to this section is repayable over a period of not more than ten years from the date the loan is made. Interest shall accrue from the date the loan is made, but the first payment of interest or principal shall not be due until one year after the loan was made. The principal shall be amortized in equal periodic payments over the remainder of the term of the loan. The accrued interest on the balance of the loan principal shall be due with each payment. Interest attributable to the first year of deferred payment shall be paid in the same manner as principal.

(c) Public schools shall receive funding priority whenever approvable loan applications exceed available funds.

Subd. 5. **PAYMENT; OBLIGATION.** The commissioner shall not approve payment to a ~~school district~~ municipality pursuant to an approved loan until the commissioner has determined that financing of the project is assured by an irrevocable undertaking, by resolution of the ~~school board~~ governing body of the municipality, to annually levy or otherwise collect an amount of money sufficient to pay the principal and interest due on the loan as well as any of the commissioner of finance's administrative expenses according to the terms of the loan.

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Subd. 6. **RECEIPTS; APPROPRIATION.** The commissioner of finance shall deposit in the state treasury all principal and interest payments received in repayment of the loans authorized by this section. These payments shall be credited to the state building fund and are appropriated to the commissioner of finance for the purposes of that account.

Subd. 7. **RULES.** The commissioner shall adopt rules necessary to implement this section. The commissioner shall adopt emergency rules pursuant to sections 14.29 to 14.36, meeting the requirements of this section. The rules shall contain as a minimum:

- (a) procedures for application by ~~districts~~ municipalities;
- (b) criteria for reviewing loan applications; and
- (c) procedures and guidelines for program monitoring, closeout, and evaluation.

Sec. 2. Minnesota Statutes 1986, section 275.50, subdivision 5, is amended to read:

Subd. 5. Notwithstanding any other law to the contrary for taxes levied in 1983 payable in 1984 and subsequent years, "special levies" means those portions of ad valorem taxes levied by governmental subdivisions to:

(a) satisfy judgments rendered against the governmental subdivision by a court of competent jurisdiction in any tort action, or to pay the costs of settlements out of court against the governmental subdivision in a tort action when substantiated by a stipulation for the dismissal of the action filed with the court of competent jurisdiction and signed by both the plaintiff and the legal representative of the governmental subdivision, but only to the extent of the increase in levy for such judgments and out of court settlements over levy year 1970, taxes payable in 1971;

(b) pay the costs of complying with any written lawful order initially issued prior to January 1, 1977 by the state of Minnesota, or the United States, or any agency or subdivision thereof, which is authorized by law, statute, special act or ordinance and is enforceable in a court of competent jurisdiction, or any stipulation agreement or permit for treatment works or disposal system for pollution abatement in lieu of a lawful order signed by the governmental subdivision and the state of Minnesota, or the United States, or any agency or subdivision thereof which is enforceable in a court of competent jurisdiction. The commissioner of revenue shall in consultation with other state departments and agencies, develop a suggested form for use by the state of Minnesota, its agencies and subdivisions in issuing orders pursuant to this subdivision;

(c) pay the costs to a governmental subdivision for their minimum required share of any program otherwise authorized by law for which matching funds have been appropriated by the state of Minnesota or the United States, exclud-

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ing the administrative costs of public assistance programs, to the extent of the increase in levy over the amount levied for the local share of the program for the taxes payable year 1971. This clause shall apply only to those programs or projects for which matching funds have been designated by the state of Minnesota or the United States on or before September 1, of the previous year and only when the receipt of these matching funds is contingent upon the initiation or implementation of the project or program during the year in which the taxes are payable or those programs or projects approved by the commissioner;

(d) pay the costs not reimbursed by the state or federal government, of payments made to or on behalf of recipients of aid under any public assistance program authorized by law, and the costs of purchase or delivery of social services. Except for the costs of general assistance as defined in section 256D.02, subdivision 4, general assistance medical care under section 256D.03 and the costs of hospital care pursuant to section 261.21, the aggregate amounts levied pursuant to this clause are subject to a maximum increase of 18 percent over the amount levied for these purposes in the previous year;

(e) pay the costs of principal and interest on bonded indebtedness or to reimburse for the amount of liquor store revenues used to pay the principal and interest due in the year preceding the year for which the levy limit is calculated on municipal liquor store bonds;

(f) pay the costs of principal and interest on certificates of indebtedness, except tax anticipation or aid anticipation certificates of indebtedness, issued for any corporate purpose except current expenses or funding an insufficiency in receipts from taxes or other sources or funding extraordinary expenditures resulting from a public emergency; and to pay the cost for certificates of indebtedness issued pursuant to sections 298.28 and 298.282;

(g) fund the payments made to the Minnesota state armory building commission pursuant to section 193.145, subdivision 2, to retire the principal and interest on armory construction bonds;

(h) provide for the bonded indebtedness portion of payments made to another political subdivision of the state of Minnesota;

(i) pay the amounts required to compensate for a decrease in manufactured homes property tax receipts to the extent that the governmental subdivision's portion of the total levy in the current levy year, pursuant to section 274.19, subdivision 8, as amended, is less than the distribution of the manufactured homes tax to the governmental subdivision pursuant to Minnesota Statutes 1969, section 273.13, subdivision 3, in calendar year 1971;

(j) pay the amounts required, in accordance with section 275.075, to correct for a county auditor's error of omission but only to the extent that when added to the preceding year's levy it is not in excess of an applicable statutory, special law or charter limitation, or the limitation imposed on the governmental subdivision by sections 275.50 to 275.56 in the preceding levy year;

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(k) pay amounts required to correct for an error of omission in the levy certified to the appropriate county auditor or auditors by the governing body of a city or town with statutory city powers in a levy year, but only to the extent that when added to the preceding year's levy it is not in excess of an applicable statutory, special law or charter limitation, or the limitation imposed on the governmental subdivision by sections 275.50 to 275.56 in the preceding levy year;

(l) pay the increased cost of municipal services as the result of an annexation or consolidation ordered by the Minnesota municipal board but only to the extent and for the levy years as provided by the board in its order pursuant to section 414.01, subdivision 15. Special levies authorized by the board shall not exceed 50 percent of the levy limit base of the governmental subdivision and may not be in effect for more than three years after the board's order;

(m) pay the increased costs of municipal services provided to new private industrial and nonresidential commercial development, to the extent that the extension of such services are not paid for through bonded indebtedness or special assessments, and not to exceed the amount determined as follows. The governmental subdivision may calculate the aggregate of:

(1) the increased expenditures necessary in preparation for the delivering of municipal services to new private industrial and nonresidential commercial development, but limited to one year's expenditures one time for each such development;

(2) the amount determined by dividing the overall levy limitation established pursuant to sections 275.50 to 275.56, and exclusive of special levies and special assessments, by the total taxable value of the governmental subdivision, and then multiplying this quotient times the total increase in assessed value of private industrial and nonresidential commercial development within the governmental subdivision. For the purpose of this clause, the increase in the assessed value of private industrial and nonresidential commercial development is calculated as the increase in assessed value over the assessed value of the real estate parcels subject to such private development as most recently determined before the building permit was issued. In the fourth levy year subsequent to the levy year in which the building permit was issued, the increase in assessed value of the real estate parcels subject to such private development shall no longer be included in determining the special levy.

The aggregate of the foregoing amounts, less any costs of extending municipal services to new private industrial and nonresidential commercial development which are paid by bonded indebtedness or special assessments, equals the maximum amount that may be levied as a "special levy" for the increased costs of municipal services provided to new private industrial and nonresidential commercial development. In the levy year following the levy year in which the special levy made pursuant to this clause is discontinued, one-half of the amount of that special levy made in the preceding year shall be added to the permanent levy base of the governmental subdivision;

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(n) recover a loss or refunds in tax receipts incurred in nonspecial levy funds resulting from abatements or court action in the previous year pursuant to section 275.48;

(o) pay amounts required by law to be paid to pay the interest on and to reduce the unfunded accrued liability of public pension funds in accordance with the actuarial standards and guidelines specified in sections 356.215 and 356.216 reduced by 106 percent of the amount levied for that purpose in 1976, payable in 1977. For the purpose of this special levy, the estimated receipts expected from the state of Minnesota pursuant to sections 69.011 to 69.031 or any other state aid expressly intended for the support of public pension funds shall be considered as a deduction in determining the required levy for the normal costs of the public pension funds. No amount of these aids shall be considered as a deduction in determining the governmental subdivision's required levy for the reduction of the unfunded accrued liability of public pension funds;

(p) the amounts allowed under section 174.27 to establish and administer a commuter van program;

(q) pay the costs of financial assistance to local governmental units and certain administrative, engineering, and legal expenses pursuant to Laws 1979, chapter 253, section 3;

(r) compensate for revenue lost as a result of abatements or court action pursuant to section 270.07, 270.17 or 278.01 due to a reassessment ordered by the commissioner of revenue pursuant to section 270.16;

(s) pay the total operating cost of a county jail as authorized in section 641.01. If the county government utilizes this special levy, then any amount levied by the county government in the previous year for operating its county jail and included in its previous year's levy limitation computed pursuant to section 275.51 shall be deducted from the current levy limitation;

(t) pay the costs of implementing section 18.023, including sanitation and reforestation;

(u) pay the estimated cost for the following calendar year of the county's share of funding the Minnesota cooperative soil survey; ~~and~~

(v) pay the costs of meeting the planning requirements of section 115A.46; the requirements of section 115A.917; the planning requirements of the metropolitan plan adopted under section 473.149 and county master plans adopted under section 473.803; waste reduction and source separation programs and facilities; response actions that are financed in part by service charges under section 400.08 or 115A.15, subdivision 6; closure and postclosure care of a solid waste facility closed by order of the pollution control agency or by expiration of an agency permit before January 1, 1989; and current operating and maintenance costs of a publicly-owned solid waste processing facility financed with general obligation bonds issued after a referendum before March 25, 1986;

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(w) pay the annual principal and interest due on a loan made under section 116J.37; and

(x) pay the annual principal and interest due on a loan from money received from litigation or settlement of alleged violations of federal petroleum pricing regulations.

Sec. 3. Minnesota Statutes 1986, section 471.65, is amended to read:

471.65 GRANT, ADVANCE, OR LOAN FROM FEDERAL OR STATE GOVERNMENT.

Subdivision 1. **ACCEPTANCE.** Notwithstanding inconsistent provisions of any other statute or home rule charter, any county, statutory or home rule charter city, town, school district or other political subdivision of the state, however organized, may accept from the government of the United States or the state of Minnesota grants, loans, or advances of money for:

(1) energy conservation investments made from funds received under section 116J.37, and from money received from litigation or settlement of alleged violations of federal petroleum pricing regulations; and

(2) the planning of public works projects, and may make agreements to repay any such loans or advances for planning purposes without submitting the proposal to a vote of the people. Funds received by any political subdivision under this subdivision shall not be used for the planning of public housing projects, or housing authority projects.

Subd. 2. **CHARTER LIMITATION ON EXPENDITURES NOT TO APPLY.** Expenditures of grants, advances or loans of money received by any city from the government of the United States or the state of Minnesota for ~~the planning of public works~~ projects under subdivision 1 by such municipality shall not be considered as part of the cost of government within the meaning of any statutory or charter limitation on expenditures.

Sec. 4. Minnesota Statutes 1986, section 475.51, subdivision 4, is amended to read:

Subd. 4. "Net debt" means the amount remaining after deducting from its gross debt the amount of current revenues which are applicable within the current fiscal year to the payment of any debt and the aggregate of the principal of the following:

(1) Obligations issued for improvements which are payable wholly or partly from the proceeds of special assessments levied upon property specially benefited thereby, including those which are general obligations of the municipality issuing them, if the municipality is entitled to reimbursement in whole or in part from the proceeds of the special assessments.

(2) Warrants or orders having no definite or fixed maturity.

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(3) Obligations payable wholly from the income from revenue producing conveniences.

(4) Obligations issued to create or maintain a permanent improvement revolving fund.

(5) Obligations issued for the acquisition, and betterment of public water-works systems, and public lighting, heating or power systems, and of any combination thereof or for any other public convenience from which a revenue is or may be derived.

(6) Debt service loans and capital loans made to a school district under the provisions of sections 124.42 and 124.43.

(7) Amount of all money and the face value of all securities held as a debt service fund for the extinguishment of obligations other than those deductible under this subdivision.

(8) Obligations to repay loans made under section 116J.37.

(9) Obligations to repay loans made from money received from litigation or settlement of alleged violations of federal petroleum pricing regulations.

(10) All other obligations which under the provisions of law authorizing their issuance are not to be included in computing the net debt of the municipality.

Sec. 5. Laws 1983, chapter 323, section 5, subdivision 1, is amended to read:

Subdivision 1. The sum of \$30,000,000 is appropriated from the state building fund to the commissioner of finance for the purpose of making loans to ~~school districts~~ municipalities for energy conservation investments pursuant to section 1. Any expense incidental to the sale, printing, execution, and delivery of the bonds, including the costs of the commissioner of finance, shall be paid from the proceeds of the bond sales authorized in section 6 and the amounts necessary for these expenses are hereby appropriated. To reduce the amount of taxes otherwise required to be levied, there is also appropriated from the general fund, on November 1 in each year, a sum of money sufficient in amount, when added to other funds appropriated for the bonds, to pay all bonds and interest on them due and to become due to and including July 1 in the second ensuing year.

Approved May 28, 1987

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