

any specific grant. The match requirement of Minnesota Statutes, section 268.9783, subdivision 6, clause (1), does not apply to grants given preference under this section.

Presented to the governor May 11, 2000

Signed by the governor May 15, 2000, 10:54 a.m.

### CHAPTER 482—S.F.No. 2893

*An act relating to business subsidies; providing clarification to the obligation of government agencies and businesses related to certain business subsidies; amending Minnesota Statutes 1999 Supplement, sections 116J.993, subdivision 3; 116J.994, subdivisions 1, 2, 3, 4, 5, 6, 7, 8, 9, and by adding a subdivision; and 116J.995.*

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

Section 1, Minnesota Statutes 1999 Supplement, section 116J.993, subdivision 3, is amended to read:

Subd. 3. **BUSINESS SUBSIDY.** "Business subsidy" or "subsidy" means a state or local government agency grant, contribution of personal property, real property, infrastructure, the principal amount of a loan at rates below those commercially available to the recipient, any reduction or deferral of any tax or any fee, any guarantee of any payment under any loan, lease, or other obligation, or any preferential use of government facilities given to a business.

The following forms of financial assistance are not a business subsidy:

- (1) a business subsidy of less than \$25,000;
- (2) assistance that is generally available to all businesses or to a general class of similar businesses, such as a line of business, size, location, or similar general criteria;
- (3) public improvements to buildings or lands owned by the state or local government that serve a public purpose and do not principally benefit a single business or defined group of businesses at the time the improvements are made;
- (4) redevelopment property polluted by contaminants as defined in section 116J.552, subdivision 3;
- (5) assistance provided for the sole purpose of renovating old or decaying building stock or bringing it up to code and assistance provided for designated historic preservation districts, provided that the assistance is equal to or less than 50 percent of the total cost;
- (6) assistance provided to organizations whose primary mission is to provide job readiness and training services if the sole purpose of the assistance is to provide those services;
- (7) assistance for housing;

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(8) assistance for pollution control or abatement, including assistance for a tax increment financing hazardous substance subdistrict as defined under section 469.174, subdivision 23;

(9) assistance for energy conservation;

(10) tax reductions resulting from conformity with federal tax law;

(11) workers' compensation and unemployment compensation;

(12) benefits derived from regulation;

(13) indirect benefits derived from assistance to educational institutions;

(14) funds from bonds allocated under chapter 474A, bonds issued to refund outstanding bonds, and bonds issued for the benefit of an organization described in section 501(c)(3) of the Internal Revenue Code of 1986, as amended through December 31, 1999;

(15) assistance for a collaboration between a Minnesota higher education institution and a business;

(16) assistance for a tax increment financing soils condition district as defined under section 469.174, subdivision 19;

(17) redevelopment when the recipient's investment in the purchase of the site and in site preparation is 70 percent or more of the assessor's current year's estimated market value; and

(18) general changes in tax increment financing law and other general tax law changes of a principally technical nature;

(19) federal assistance until the assistance has been repaid to, and reinvested by, the state or local government agency;

(20) funds from dock and wharf bonds issued by a seaway port authority;

(21) business loans and loan guarantees of \$75,000 or less; and

(22) federal loan funds provided through the United States Department of Commerce, Economic Development Administration.

Sec. 2. Minnesota Statutes 1999 Supplement, section 116J.994, subdivision 1, is amended to read:

Subdivision 1. **PUBLIC PURPOSE.** A business subsidy must meet a public purpose other than which may include, but may not be limited to, increasing the tax base. Job retention may only be used as a public purpose in cases where job loss is ~~imminent~~ specific and demonstrable.

Sec. 3. Minnesota Statutes 1999 Supplement, section 116J.994, subdivision 2, is amended to read:

Subd. 2. **DEVELOPING A SET OF CRITERIA.** A business subsidy may not be granted until the grantor has adopted criteria after a public hearing for awarding

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business subsidies that comply with this section. The criteria may not be adopted on a case-by-case basis. The criteria must set specific minimum requirements that recipients must meet in order to be eligible to receive business subsidies. The criteria must include a policy regarding specific wage floor for the wages to be paid for the jobs created. The wage floor may be stated as a specific dollar amount or may be stated as a formula that will generate a specific dollar amount. A grantor may deviate from its criteria by documenting in writing the reason for the deviation and attaching a copy of the document to its next annual report to the department. The commissioner of trade and economic development may assist local government agencies in developing criteria. A copy of the criteria must be submitted to the department of trade and economic development along with the first annual report following the enactment of this section or with the first annual report after it has adopted criteria, whichever is earlier.

Sec. 4. Minnesota Statutes 1999 Supplement, section 116J.994, subdivision 3, is amended to read:

Subd. 3. **SUBSIDY AGREEMENT.** (a) A recipient must enter into a subsidy agreement with the grantor of the subsidy that includes:

- (1) a description of the subsidy, including the amount and type of subsidy, and type of district if the subsidy is tax increment financing;
- (2) a statement of the public purposes for the subsidy;
- (3) measurable, specific, and tangible goals for the subsidy;
- (4) a description of the financial obligation of the recipient if the goals are not met;
- (5) a statement of why the subsidy is needed;
- (6) a commitment to continue operations at the site in the jurisdiction where the subsidy is used for at least five years after the benefit date;
- (7) the name and address of the parent corporation of the recipient, if any; and
- (8) a list of all financial assistance by all grantors for the project.

(b) Business subsidies in the form of grants must be structured as forgivable loans. If a business subsidy is not structured as a forgivable loan For other types of business subsidies, the agreement must state the fair market value of the subsidy to the recipient, including the value of conveying property at less than a fair market price, or other in-kind benefits to the recipient.

(c) If a business subsidy benefits more than one recipient, the grantor must assign a proportion of the business subsidy to each recipient that signs a subsidy agreement. The proportion assessed to each recipient must reflect a reasonable estimate of the recipient's share of the total benefits of the project.

(d) The state or local government agency and the recipient must both sign the subsidy agreement and, if the grantor is a local government agency, the agreement must

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be approved by the local elected governing body, except for the St. Paul Port Authority and a seaway port authority.

(e) Notwithstanding the provision in paragraph (a), clause (6), a recipient may be authorized to move from the jurisdiction where the subsidy is used within the five-year period after the benefit date if, after a public hearing, the grantor approves the recipient's request to move. For the purpose of this paragraph, if the grantor is a state government agency other than the iron range resources and rehabilitation board, "jurisdiction" means a city or township.

Sec. 5. Minnesota Statutes 1999 Supplement, section 116J.994, subdivision 4, is amended to read:

Subd. 4. **WAGE AND JOB GOALS.** The subsidy agreement, in addition to any other goals, must include: (1) goals for the number of jobs created, which may include separate goals for the number of part-time or full-time jobs, or, in cases where job loss is imminent specific and demonstrable, goals for the number of jobs retained; and (2) wage goals for the jobs created or retained. After a public hearing, if the creation or retention of jobs is determined not to be a goal, the wage and job goals may be set at zero.

In addition to other specific goal time frames, the wage and job goals must contain specific goals to be attained within two years of the benefit date.

Sec. 6. Minnesota Statutes 1999 Supplement, section 116J.994, subdivision 5, is amended to read:

Subd. 5. **PUBLIC NOTICE AND HEARING.** (a) Before granting a business subsidy that exceeds \$500,000 for a state government grantor and \$100,000 for a local government grantor, the grantor must provide public notice and a hearing on the subsidy. A public hearing and notice under this subdivision is not required if a hearing and notice on the subsidy is otherwise required by law.

(b) Public notice of a proposed business subsidy under this subdivision by a state government grantor, other than the iron range resources and rehabilitation board, must be published in the State Register. Public notice of a proposed business subsidy under this subdivision by a local government grantor or the iron range resources and rehabilitation board must be published in a local newspaper of general circulation. The public notice must identify the location at which information about the business subsidy, including a copy summary of the terms of the subsidy agreement, is available. Published notice should be sufficiently conspicuous in size and placement to distinguish the notice from the surrounding text. The grantor must make the information available in printed paper copies and, if possible, on the Internet. The government agency must provide at least a ten-day notice for the public hearing.

(c) The public notice must include the date, time, and place of the hearing.

(d) The public hearing by a state government grantor other than the iron range resources and rehabilitation board must be held in St. Paul.

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(e) If more than one nonstate grantor provides a business subsidy to the same recipient, the nonstate grantors may designate one nonstate grantor to hold a single public hearing regarding the business subsidies provided by all nonstate grantors. For the purposes of this paragraph, "nonstate grantor" includes the iron range resources and rehabilitation board.

Sec. 7. Minnesota Statutes 1999 Supplement, section 116J.994, subdivision 6, is amended to read:

Subd. 6. **FAILURE TO MEET GOALS.** The subsidy agreement must specify the recipient's obligation if the recipient does not fulfill the agreement. At a minimum, the agreement must require a recipient failing to meet subsidy agreement goals to pay back the assistance plus interest to the grantor or, at the grantor's option, to the account created under section 116J.551 provided that repayment may be prorated to reflect partial fulfillment of goals. The interest rate must be set at no less than the implicit price deflator as defined under section 275.70, subdivision 2. The grantor, after a public hearing, may extend for up to one year the period for meeting the wage and job goals under subdivision 4 provided in a subsidy agreement. A grantor may extend the period for meeting other goals under subdivision 3, clause (3), by documenting in writing the reason for the extension and attaching a copy of the document to its next annual report to the department.

A recipient that fails to meet the terms of a subsidy agreement may not receive a business subsidy from any grantor for a period of five years from the date of failure or until a recipient satisfies its repayment obligation under this subdivision, whichever occurs first.

Before a grantor signs a business subsidy agreement, the grantor must check with the compilation and summary report required by this section to determine if the recipient is eligible to receive a business subsidy.

Sec. 8. Minnesota Statutes 1999 Supplement, section 116J.994, subdivision 7, is amended to read:

Subd. 7. **REPORTS BY RECIPIENTS TO GRANTORS.** (a) A business subsidy grantor must monitor the progress by the recipient in achieving agreement goals.

(b) A recipient must provide information regarding goals and results for two years after the benefit date or until the goals are met, whichever is later. If the goals are not met, the recipient must continue to provide information on the subsidy until the subsidy is repaid. The information must be filed on forms developed by the commissioner in cooperation with representatives of local government. Copies of the completed forms must be sent to the commissioner and the local government agency that provided the business subsidy to the local government agency that provided the subsidy or to the commissioner if the grantor is a state agency. If the iron range resources and rehabilitation board is the grantor, the copies must be sent to the board. The report must include:

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- (1) the type, public purpose, and amount of subsidies and type of district, if the subsidy is tax increment financing;
- (2) the hourly wage of each job created with separate bands of wages;
- (3) the sum of the hourly wages and cost of health insurance provided by the employer with separate bands of wages;
- (4) the date the job and wage goals will be reached;
- (5) a statement of goals identified in the subsidy agreement and an update on achievement of those goals;
- (6) the location of the recipient prior to receiving the business subsidy;
- (7) why the recipient did not complete the project outlined in the subsidy agreement at their previous location, if the recipient was previously located at another site in Minnesota;
- (8) the name and address of the parent corporation of the recipient, if any;
- (9) a list of all financial assistance by all grantors for the project; and
- (10) other information the commissioner may request.

A report must be filed no later than March 1 of each year for the previous year and within 30 days after the deadline for meeting the job and wage goals. The local agency and the iron range resources and rehabilitation board must forward copies of the reports received by recipients to the commissioner by April 1.

(c) Financial assistance that is excluded from the definition of "business subsidy" by section 116J.993, subdivision 3, clauses (4), (5), (8), and (16) is subject to the reporting requirements of this subdivision, except that the report of the recipient must include instead:

- (1) the type, public purpose, and amount of the financial assistance, and type of district if the subsidy assistance is tax increment financing;
- (2) progress towards meeting goals stated in the subsidy assistance agreement and the public purpose of the assistance;
- (3) if the agreement includes job creation, the hourly wage of each job created with separate bands of wages;
- (4) if the agreement includes job creation, the sum of the hourly wages and cost of health insurance provided by the employer with separate bands of wages;
- (5) the location of the recipient prior to receiving the assistance; and
- (6) other information the grantor requests.

(d) If the recipient does not submit its report, the local government agency must mail the recipient a warning within one week of the required filing date. If, after 14 days of the postmarked date of the warning, the recipient fails to provide a report, the recipient must pay to the grantor a penalty of \$100 for each subsequent day until the

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report is filed. The maximum penalty shall not exceed \$1,000.

Sec. 9. Minnesota Statutes 1999 Supplement, section 116J.994, subdivision 8, is amended to read:

Subd. 8. **REPORTS BY GRANTORS.** (a) Local government agencies of a local government with a population of more than 2,500 and state government agencies, regardless of whether or not they have awarded any business subsidies, must file a report by April 1 of each year with the commissioner. Local government agencies of a local government with a population of 2,500 or less are exempt from filing this report if they have not awarded a business subsidy in the past five years. The local government agency report must include a list of recipients that did not complete the recipient report required under subdivision 7 and a list of recipients that have not met their job and wage goals within two years and the steps being taken to bring them into compliance or to recoup the subsidy.

If the commissioner has not received the report by April 1 from an entity required to report, the commissioner shall issue a warning to the government agency. If the commissioner has still not received the report by June 1 of that same year from an entity required to report, then that government agency may not award any business subsidies until the report has been filed.

(b) The commissioner of trade and economic development must provide information on reporting requirements to state and local government agencies.

Sec. 10. Minnesota Statutes 1999 Supplement, section 116J.994, subdivision 9, is amended to read:

Subd. 9. **COMPILATION AND SUMMARY REPORT.** The department of trade and economic development must publish a compilation and summary of the results of the reports for the previous calendar year by July August 1 of each year. The reports of the government agencies to the department and the compilation and summary report of the department must be made available to the public.

The commissioner must coordinate the production of reports so that useful comparisons across time periods and across grantors can be made. The commissioner may add other information to the report as the commissioner deems necessary to evaluate business subsidies. Among the information in the summary and compilation report, the commissioner must include:

- (1) total amount of subsidies awarded in each development region of the state;
- (2) distribution of business subsidy amounts by size of the business subsidy;
- (3) distribution of business subsidy amounts by time category, such as monthly or quarterly;
- (4) distribution of subsidies by type and by public purpose;
- (5) percent of all business subsidies that reached their goals;

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(6) percent of business subsidies that did not reach their goals by two years from the benefit date;

(7) total dollar amount of business subsidies that did not meet their goals after two years from the benefit date;

(8) percent of subsidies that did not meet their goals and that did not receive repayment;

(9) list of recipients that have failed to meet the terms of a subsidy agreement in the past five years and have not satisfied their repayment obligations;

(10) number of part-time and full-time jobs within separate bands of wages; and

(11) benefits paid within separate bands of wages.

Sec. 11. Minnesota Statutes 1999 Supplement, section 116J.994, is amended by adding a subdivision to read:

Subd. 10. COMPILATION. The department of trade and economic development must publish a compilation of granting agencies' criteria policies adopted in the previous calendar year by August 1 of each year.

Sec. 12. Minnesota Statutes 1999 Supplement, section 116J.995, is amended to read:

**116J.995 ECONOMIC GRANTS.**

An appropriation rider in an appropriation to the department of trade and economic development that specifies that the appropriation be granted to a particular business or class of businesses must contain a statement of the expected benefits associated with the grant. At a minimum, the statement must include goals for the number of jobs created, wages paid, and the tax revenue increases due to the grant. The wage and job goals must contain specific goals to be attained within two years of the benefit date. The statement must specify the recipient's obligation if the recipient does not attain the goals. At a minimum, the statement must require a recipient failing to meet the job and wage goals to pay back the assistance plus interest to the department of trade and economic development provided that repayment may be prorated to reflect partial fulfillment of goals. The interest rate must be set at no less than the implicit price deflator as defined under section 275.70, subdivision 2. The legislature, after a public hearing, may extend for up to one year the period for meeting the goals provided in the statement.

**Sec. 13. TRANSITION PROVISION.**

A granting agency that, prior to May 1, 2000, adopted criteria that complied with Minnesota Statutes 1999 Supplement, section 116J.994, subdivision 2, has until May 1, 2003, to comply with the minimum criteria requirements added by section 3.

**Sec. 14. 1995 TO 1999 ASSISTANCE.**

Subdivision 1. REPEALER OF NO EFFECT. Subdivision 2 is applicable to the receipt of assistance between July 1, 1995, and July 31, 1999, notwithstanding the

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repeal of Minnesota Statutes, section 116J.991, by Laws 1999, chapter 243, article 12, section 4, and provided that the assistance would have been subject to Minnesota Statutes, section 116J.991, if not for that repeal.

**Subd. 2. PUBLIC ASSISTANCE TO BUSINESS; WAGE AND JOB REQUIREMENTS.** A business that receives state or local government assistance for economic development or job growth purposes must create a net increase in jobs in Minnesota within two years of receiving the assistance.

The government agency providing the assistance must establish wage level and job creation goals to be met by the business receiving the assistance. A business that fails to meet the goals must repay the assistance to the government agency.

Each government agency must report the wage and job goals and the results for each project in achieving those goals to the department of trade and economic development. The department shall compile and publish the results of the reports for the previous calendar year by August 1 of each year. The reports of the agencies to the department and the compilation report of the department shall be made available to the public.

For the purpose of this subdivision, "assistance" means a grant or loan in excess of \$25,000 or tax increment financing.

#### Sec. 15. EFFECTIVE DATE.

The amendment in section 1, adding clause (21), is effective the day following final enactment and is retroactive to January 1, 2000. Section 14 is effective January 1, 2001.

Presented to the governor May 11, 2000

Signed by the governor May 15, 2000, 10:55 a.m.

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### CHAPTER 483—H.F.No. 3505

*An act relating to commerce; providing enforcement authority to the commissioner; providing technical changes; regulating certain disclosures; specifying the license term and fees of a managing general agent; regulating motor vehicle service contracts; regulating underwriting practices; regulating insurance brokerage business; regulating workers' compensation self-insurance; regulating securities broker-dealers and investment advisers; authorizing the commissioner to withdraw certain inactive registration applications; regulating real estate and insurance agent continuing education; regulating the contractor recovery fund; making collection agencies responsible for the acts of collectors; providing standards of conduct for notarial acts; regulating unclaimed property; amending Minnesota Statutes 1998, sections 45.027, subdivision 7a; 60A.052, subdivision 1; 60A.129, subdivision 5; 60H.03, by adding a subdivision; 60K.03, subdivision 4; 60K.14, subdivision 1; 61A.092, subdivision 6; 62A.136; 62C.11, subdivision 1; 62C.142, subdivision 2a; 62E.04, subdivision 4; 62H.10, subdivision 4; 62S.02, subdivision 1; 64B.30, subdivision 1; 65B.29, subdivisions 2 and 3; 72A.20, subdivision 17; 72A.499,*

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