

State of Minnesota

H. F. No. **1736**

1.1 A bill for an act

1.2 relating to taxation; tax increment financing; providing flexibility on the use of

1.3 increments; extending the five-year rule for certain redevelopment districts;

1.4 providing flexibility on the use of proceeds of certain local sales taxes; amending

1.5 Minnesota Statutes 2020, sections 469.176, by adding a subdivision; 469.1763,

1.6 subdivisions 2, 3, 4.

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

1.8 Section 1. Minnesota Statutes 2020, section 469.176, is amended by adding a subdivision

1.9 to read:

1.10 Subd. 4n. **Temporary use of increments authorized.** (a) Notwithstanding any other

1.11 provision of this section, section 469.1763, or special law, upon the request of the

1.12 municipality, the authority may elect, by resolution, to transfer unobligated increments from

1.13 a district to the municipality for deposit into the municipality's general fund. The authority

1.14 may transfer increments under this subdivision after the spending plan and public hearing

1.15 requirements under paragraph (c) are met. The municipality may expend transferred

1.16 increments for any purpose permitted under the municipality's general fund.

1.17 (b) For each calendar year for which transfers are permitted under this section, the

1.18 maximum transfer equals the excess of the district's unobligated increments which includes

1.19 any increment not required for payments of obligations due during the six months following

1.20 the transfer on outstanding bonds, binding contracts, and other outstanding financial

1.21 obligations of the district to which the district's increments are pledged.

1.22 (c) The authority may transfer increments permitted under this subdivision after creating

1.23 a written spending plan that authorizes the authority to take the action described in paragraph

1.24 (a) and details the use of transferred increments. Additionally, the municipality must approve

the authority's spending plan and modify the authority's tax increment financing plan after holding a public hearing. The municipality must publish notice of the hearing in a newspaper of general circulation in the municipality and on the municipality's public website at least ten days, but not more than 30 days, prior to the date of the hearing.

(d) Increment that is improperly received, spent, or transferred is not eligible for a transfer under this subdivision.

(e) An authority making a transfer under this subdivision must provide to the Office of the State Auditor a copy of the spending plan approved and signed by the municipality, as well as a copy of the updated tax increment financing plan.

(f) The authority to transfer increments under this subdivision expires on December 31, 2022. All transferred increments must be spent by December 31, 2022. If the municipality cannot spend the transferred increments by December 31, 2022, the municipality must adopt a plan that details the use of transferred increments.

EFFECTIVE DATE; APPLICATION. This section is effective the day following final enactment and applies to increments from any district that are unobligated as of the date of final enactment regardless of when the authority made a request for certification.

Sec. 2. Minnesota Statutes 2020, section 469.1763, subdivision 2, is amended to read:

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

(b) In the case of a housing district, ~~a housing project, as defined in section 469.174, subdivision 11, is an activity in the district.~~ the following are considered to be activities in the district:

(1) a housing project, as defined in section 469.174, subdivision 11; and

(2) a transfer of increments to an affordable housing trust fund established pursuant to section 462C.16, for expenditures made in conformity with the political subdivision's ordinance and policy establishing the trust fund. Any transfers made pursuant to this clause are not subject to the annual reporting requirements imposed by section 469.175.

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

(d) The authority may elect, in the tax increment financing plan for the district, to increase by up to ~~ten~~ 25 percentage points the permitted amount of expenditures for activities located outside the geographic area of the district under paragraph (a). As permitted by section 469.176, subdivision 4k, the expenditures, including the permitted expenditures under paragraph (a), need not be made within the geographic area of the project. Expenditures that meet the requirements of this paragraph are legally permitted expenditures of the district, notwithstanding section 469.176, subdivisions 4b, 4c, and 4j. To qualify for the increase under this paragraph, the expenditures must:

(1) be used ~~exclusively~~ to assist housing that meets the requirement for a qualified low-income building, as that term is used in section 42 of the Internal Revenue Code, or to assist owner-occupied housing that meets the requirements of section 469.1761; and

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

(3) be used to:

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

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

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

(4) be used to develop housing:

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

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

(B) \$200,000 for municipalities located in the metropolitan area, as defined in section 473.121, or \$125,000 for all other municipalities; and

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

(e) The authority under paragraph (d), clause (4), expires on December 31, 2016. Increments may continue to be expended under this authority after that date, if they are used to pay bonds or binding contracts that would qualify under subdivision 3, paragraph (a), if December 31, 2016, is considered to be the last date of the five-year period after certification under that provision.

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

Sec. 3. Minnesota Statutes 2020, section 469.1763, subdivision 3, is amended to read:

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

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

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

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

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

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

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

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

(d) For a redevelopment district that was certified after December 31, 2019, and before January 1, 2022, the five-year periods described in paragraph (a) are extended to ten years after certification of the district.

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

Sec. 4. Minnesota Statutes 2020, section 469.1763, subdivision 4, is amended to read:

Subd. 4. **Use of revenues for decertification.** (a) In each year beginning with the sixth year following certification of the district, or beginning with the 11th year following certification of the district for districts whose five-year rule is extended to ten years under subdivision 3, paragraph (d), if the applicable in-district percent of the revenues derived from tax increments paid by properties in the district exceeds the amount of expenditures that have been made for costs permitted under subdivision 3, an amount equal to the difference between the in-district percent of the revenues derived from tax increments paid by properties in the district and the amount of expenditures that have been made for costs permitted under subdivision 3 must be used and only used to pay or defease the following or be set aside to pay the following:

(1) outstanding bonds, as defined in subdivision 3, paragraphs (a), clause (2), and (b);

(2) contracts, as defined in subdivision 3, paragraph (a), clauses (3) and (4);

(3) credit enhanced bonds to which the revenues derived from tax increments are pledged, but only to the extent that revenues of the district for which the credit enhanced bonds were issued are insufficient to pay the bonds and to the extent that the increments from the applicable pooling percent share for the district are insufficient; or

(4) the amount provided by the tax increment financing plan to be paid under subdivision 2, paragraphs (b), (d), and (e).

(b) The district must be decertified and the pledge of tax increment discharged when the outstanding bonds have been defeased and when sufficient money has been set aside to pay, based on the increment to be collected through the end of the calendar year, the following amounts:

(1) contractual obligations as defined in subdivision 3, paragraph (a), clauses (3) and (4);

(2) the amount specified in the tax increment financing plan for activities qualifying under subdivision 2, paragraph (b), that have not been funded with the proceeds of bonds qualifying under paragraph (a), clause (1); and

(3) the additional expenditures permitted by the tax increment financing plan for housing activities under an election under subdivision 2, paragraph (d), that have not been funded with the proceeds of bonds qualifying under paragraph (a), clause (1).

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