

**Public Indebtedness, Borrowing
CHAPTER 474**

PUBLIC DEVELOPMENT DEBT LAWS

**MUNICIPAL INDUSTRIAL DEVELOPMENT
ACT**

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MUNICIPAL INDUSTRIAL DEVELOPMENT ACT

474.01 CITATION; POLICIES, PURPOSES AND FINDINGS; PARTICIPATION BY MUNICIPALITIES.

Subdivision 1. Sections 474.01 to 474.13 may be cited as the Minnesota municipal industrial development act. Its purposes and the conditions creating the necessity for its enactment are found and determined by the legislature to be as stated in this section.

Subd. 2. The welfare of the state requires the active promotion, attraction, encouragement, and development of economically sound industry and commerce through governmental action for the purpose of preventing, so far as possible, the emergence of blighted and marginal lands and areas of chronic unemployment. It is the policy of the state to facilitate and encourage action by local government units to prevent the economic deterioration of such areas to the point where the process can be reversed only by total redevelopment through the use of local, state, and federal funds derived from taxation, with the attendant necessity of relocating displaced persons and of duplicating public services in other areas.

Subd. 3. A primary factor necessitating such action is technological change in agriculture, mining, forestry, and other traditional industries of the state, the effect of which is to shift to a significant degree the area of opportunity for educated youth to processing, transporting, marketing, service, and other industries. Unless existing and related industries are retained and new industries are developed to use the available resources in each community, a large part of the existing investment of these communities and of the state as a whole in educational and public service facilities will be lost. For the future, the resulting movement of talented, educated personnel of mature age to areas where their services may be effectively used and compensated, and the lessening attraction of persons and businesses from other areas for purposes of industry, commerce, and tourism, will deprive the community and the state of the economic and human resources needed as a base for providing governmental services and facilities for the remaining population.

Subd. 4. Other factors necessitating such action are the increasing concentration of population in urban and metropolitan areas; the consequent increase in the amount and cost of governmental services required in these areas; the energy crisis and energy cost escalation, and their contribution to unemployment, rising interest

rates, balance of payments deficits and increased welfare payments to cover rising fuel costs and the increased costs of fuel intensive necessities; and the need for more intensive development and use of land to provide an adequate tax base to finance these costs. The effect of these factors is intensified by the necessity of withdrawing land for public use for highways, parks and open space reserves, schools and playgrounds, and other public enterprises needed to sustain proper living conditions, communications, and mobility in an increasingly urban society.

Subd. 5. Through the authorization and creation of housing and redevelopment authorities, port authorities, and area and municipal redevelopment agencies the legislature has sought to provide monetary aids for the redevelopment of blighted areas, marginal lands, and areas of substantial and persistent unemployment. By the use of the powers and procedures described in sections 474.01 to 474.13, it is believed that local government units may in many cases prevent the occurrence of the conditions requiring redevelopment, and may be able to reduce substantially the cost of redevelopment when it becomes necessary.

It is also the purpose of 474.01 to 474.13 to permit the exercise of these powers by such units, authorities and agencies, in addition to any powers granted and without regard to any limitations imposed by any other law, to aid in the redevelopment of existing areas of blight, marginal land, and substantial and persistent unemployment.

Subd. 6. In order to further these purposes and policies the energy and economic development authority shall investigate, shall assist and advise municipalities, and shall report to the governor and the legislature concerning the operation of sections 474.01 to 474.13 and the projects undertaken hereunder, and shall have all of the powers and duties in connection therewith which are granted to him by chapter 362 with respect to other aspects of business development and research.

Subd. 7. Any municipality or redevelopment agency contemplating the exercise of the powers granted by sections 474.01 to 474.13 may apply to the commissioner of energy and economic development for information, advice, and assistance. The commissioner is authorized to handle such preliminary information in a confidential manner, to the extent requested by the municipality.

Subd. 7a. No municipality or redevelopment agency shall undertake any project authorized by sections 474.01 to 474.13, except a project referred to in section 474.02, subdivision 1f, unless its governing body finds that the project furthers the purposes stated in this section, nor until the commissioner of energy and economic development has approved the project, on the basis of preliminary information which the commissioner may require, as tending to further the purposes and policies of sections 474.01 to 474.13. Approval shall not be deemed to be an approval by the commissioner of energy and economic development or the state of the feasibility of the project or the terms of the revenue agreement to be executed or the bonds to be issued therefor, and the commissioner shall state this in communicating approval.

Subd. 7b. Prior to submitting an application to the energy and economic development authority requesting approval of a project pursuant to subdivision 7a, the governing body or a committee of the governing body of the municipality or redevelopment agency shall conduct a public hearing on the proposal to undertake and finance the project. Notice of the time and place of hearing, and stating the general nature of the project and an estimate of the principal amount of bonds or other obligations to be issued to finance the project, shall be published at least once not less than 15 days nor more than 30 days prior to the date fixed for the hearing, in the official newspaper and a newspaper of general circulation of the municipality or redevelopment agency. The notice shall state that a draft copy of the proposed application to the energy and economic development authority, together with all attachments and exhibits thereto, shall be available for public inspection following

the publication of the notice and shall specify the place and times where and when it will be so available. At the time and place fixed for the public hearing, the governing body of the municipality or the redevelopment agency shall give all parties who appear at the hearing an opportunity to express their views with respect to the proposal to undertake and finance the project. Following the completion of the public hearing, the governing body of the municipality or redevelopment agency shall adopt a resolution determining whether or not to proceed with the project and its financing and may thereafter apply to the energy and economic development authority for approval of the project.

Subd. 8. Each municipality and redevelopment agency upon entering into a revenue agreement, except one pertaining to a project referred to in section 474.02, subdivision 1f, shall furnish the energy and economic development authority on the forms the energy and economic development authority may prescribe the following information concerning the project: The name of the contracting party, the nature of the enterprise, the location, approximate number of employees, the general terms and nature of the revenue agreement, the amount of bonds or notes issued, and other information the energy and economic development authority may deem advisable. The energy and economic development authority shall keep a record of the information which shall be available to the public at times the energy and economic development authority shall prescribe.

Subd. 9. The welfare of the state further requires the provision of necessary health care facilities, to the end that adequate health care services be made available to residents of the state at reasonable cost.

Subd. 10. The welfare of the state further requires the provision of county jail facilities for the purpose of providing adequately for the care, control, and safeguarding of civil rights of prisoners.

Subd. 11. **Employment preference.** The welfare of the state requires that, whenever feasible, employment opportunities made available in part by sections 474.01 to 474.15 or other state law providing for financing mechanisms similar to those described in those sections should be offered to individuals who are unemployed or who are economically disadvantaged as defined in the federal Job Training Partnership Act of 1982, Statutes at Large, volume 96, page 1322. Every municipality, redevelopment agency, or other person undertaking a project financed wholly or in part by these financing mechanisms is encouraged to target employment opportunities to qualified individuals who are unemployed or economically disadvantaged. The intent of this subdivision may be accomplished by but is not limited to mechanisms such as a first source agreement in which the employer agrees to use a designated employment office as a first source for employment recruitment, referral, and placement.

Not later than July 1, 1984, and each July 1 for the succeeding three years, every municipality, redevelopment agency, or other person who undertakes a project financed wholly or in part by these financing mechanisms shall submit an employment report to the energy and economic development authority. The report shall be on forms provided by the energy and economic development authority and shall include, but need not be limited to, the following information:

- (a) the total number of jobs created by the project,
 - (b) the number of unemployed and economically disadvantaged persons hired,
- and
- (c) the average wage level of the jobs created.

History: 1967 c 297 s 1; 1967 c 299 s 9; Ex1971 c 31 art 24 s 1; 1975 c 422 s 1-5; 1977 c 420 s 1,2; 1978 c 609 s 4; 1979 c 306 s 9,10; 1980 c 480 s 1; 1980 c 516 s 2; 1980 c 595 s 9; 1980 c 597 s 2-4; 1981 c 356 s 243-245; 1982 c 405 s 2,3; 1983 c 289 s 113,115 subd 1; 1984 c 583 s 33,34

NOTE: See Laws 1983, chapter 289, section 115, subdivision 1, clause (d).

474.02 DEFINITIONS.

Subdivision 1. The term "project" as used in sections 474.01 to 474.13, unless a different meaning clearly appears from the context, means any properties, real or personal, used or useful in connection with a revenue producing enterprise, or any combination of two or more such enterprises engaged or to be engaged in generating, transmitting, or distributing electricity, assembling, fabricating, manufacturing, mixing, processing, storing, warehousing, or distributing any products of agriculture, forestry, mining, or manufacture, or in research and development activity in this field. The term "project" shall also include any properties, real or personal, used or useful in the abatement or control of noise, air or water pollution, or in the disposal of solid wastes, in connection with a revenue producing enterprise, or any combination of two or more such enterprises engaged or to be engaged in any business or industry. The term "project" shall also mean any properties, real or personal, used or useful in connection with the business of telephonic communications, conducted or to be conducted by a telephone company, including, without limitation, toll lines, poles, cables, switching and other electronic equipment and administrative, data processing, garage and research and development facilities. The term "project" also means any properties, real or personal, used or useful in connection with a district heating system, consisting of the use of one or more energy conversion facilities to produce hot water or steam for distribution to homes and businesses, including cogeneration facilities, distribution lines, service facilities and retrofit facilities for modifying the user's heating or water system to use the heat energy converted from the steam or hot water.

Subd. 1a. The term project shall also include any properties, real or personal, used or useful in connection with a revenue producing enterprise, or any combination of two or more such enterprises engaged in any business.

Subd. 1b. In furtherance of the purpose specified in sections 301A.02 and 474.01, the term "project" shall include any properties, real or personal, used or useful for the promotion of tourism in the state. Properties may include hotels, motels, lodges, resorts, recreational facilities of the type which may be acquired under section 471.191, and related facilities.

Subd. 1c. The term "project" shall also include any properties, real or personal, whether or not now in existence, used or useful in connection with a revenue producing enterprise, whether or not operated for profit, engaged in providing health care services, including, without limitation, hospitals, nursing homes, and related medical facilities.

Subd. 1d. Notwithstanding any provision of sections 474.01 to 474.13, the term "project" shall not include any property to be sold or to be affixed to or consumed in the production of property for sale, and shall not include any housing facility to be rented or used as a permanent residence.

Subd. 1e. The term "project" also means the activities of any revenue producing enterprise involving the construction, fabrication, sale or leasing of equipment or products to be used in gathering, processing, generating, transmitting or distributing solar, wind, geothermal, biomass, agricultural or forestry energy crops, or other alternative energy sources for use by any person or any residential, commercial, industrial or governmental entity in heating, cooling or otherwise providing energy for a facility owned or operated by that person or entity.

Subd. 1f. The term "project" shall also include any properties, real or personal, used or useful in connection with a county jail or county regional jail, the plans for which are approved by the commissioner of corrections; provided that the provisions of section 474.03, clauses (6) and (12) shall not apply to such projects.

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Subd. 2. "Municipality" means any city and any town described in section 368.01 and any county where the project is located outside the boundaries of a city or a town described in section 368.01. In all cases in which a project involves telephonic communications conducted by or to be conducted by a telephone company, or financial or other assistance to rail users as defined in section 222.48, subdivision 6, for the purpose of making capital investment loans for rail line rehabilitation, "municipality" also means any county.

Subd. 3. "Redevelopment agency" means any port authority referred to in chapter 458, or any city authorized by general or special law to exercise the powers of a port authority; any housing and redevelopment authority referred to in chapter 462 or any body authorized to exercise the powers of a housing and redevelopment authority; and any area or municipal redevelopment agency referred to in chapter 472.

Subd. 4. "Telephone company" means any person, firm, association, including a cooperative association formed pursuant to chapter 308, or corporation, excluding municipal telephone companies, operating for hire any telephone line, exchange or system, wholly or partly within this state.

Subd. 5. "Contracting party" means any party to a revenue agreement except the municipality or redevelopment agency.

Subd. 6. "Revenues" of a project include payments under a revenue agreement, or under notes, debentures, bonds and other secured or unsecured debt obligations of a contracting party.

Subd. 7. "Revenue agreement" means any written agreement between a municipality or redevelopment agency and a contracting party with respect to a project, whereby the contracting party agrees to pay to the municipality or redevelopment agency or its order amounts sufficient at all times to pay when due the principal of, premium, if any, and interest on all bonds issued by the municipality or redevelopment agency with respect to that project. A revenue agreement may be in the form of a lease, mortgage, direct or installment sale contract, loan agreement, take or pay or similar agreement, and be secured in such manner as the parties agree or be unsecured. A revenue agreement must satisfy the requirements of section 474.03, clause (3).

Subd. 8. "Trustee" means any corporation, bank or other entity authorized under any law of the United States or of any state to exercise trust powers, or any natural person, or any one or more of them, acting as trustee, co-trustee or successor trustee under an indenture pursuant to designation of the municipality or redevelopment agency.

Subd. 9. "Alternative energy" means any energy source which does not depend upon nuclear fuel or nonrenewable fossil fuel, or which makes available another energy source which currently is wasted and which includes, but is not limited to, cogeneration or district heating.

History: 1967 c 297 s 2; Ex1971 c 31 art 24 s 2,3; 1973 c 314 s 1; 1974 c 288 s 1; 1974 c 338 s 1-3; 1974 c 430 s 1; 1975 c 422 s 6-12; 1978 c 609 s 5; 1978 c 667 s 11; 1979 c 306 s 11; 1980 c 480 s 2,3; 1980 c 509 s 155; 1980 c 597 s 5; 1981 c 334 s 8; 1982 c 523 art 37 s 1

474.03 POWERS.

Subdivision 1. **General.** Any municipality or redevelopment agency, in addition to the powers prescribed elsewhere by the laws of this state, has all powers set forth in this section.

Subd. 2. **Project acquisition.** It may acquire, construct, and hold any lands, buildings, easements, water and air rights, improvements to lands and buildings, and

capital equipment to be located permanently or used exclusively on a designated site and solid waste disposal and pollution control equipment, and alternative energy equipment and inventory, regardless of where located, which are deemed necessary in connection with a project to be situated within the state, whether wholly or partially within or without the municipality or redevelopment agency, and construct, reconstruct, improve, better, and extend the project. It may also pay part or all of the cost of an acquisition and construction by a contracting party under a revenue agreement.

Subd. 3. **Revenue bonds.** It may issue revenue bonds, in anticipation of the collection of revenues of a project to be situated within the state, whether wholly or partially within or without the municipality or redevelopment agency, to finance, in whole or in part, the cost of the acquisition, construction, reconstruction, improvement, betterment, or extension thereof.

Subd. 4. **Refinancing health facilities.** It may issue revenue bonds to pay, purchase, or discharge all or any part of the outstanding indebtedness of a contracting party engaged primarily in the operation of one or more nonprofit hospitals or nursing homes, theretofore incurred in the acquisition or betterment of its existing hospital or nursing home facilities, including, to the extent deemed necessary by the governing body of the municipality or redevelopment agency, any unpaid interest on the indebtedness accrued or to accrue to the date on which such indebtedness is finally paid, and any premium the governing body of the municipality or redevelopment agency determines to be necessary to be paid to pay, purchase, or defease the outstanding indebtedness. If revenue bonds are issued for this purpose, the refinancing and the existing properties of the contracting party shall be deemed to constitute a project under section 474.02, subdivision 1c. Revenue bonds may not be issued pursuant to this subdivision unless the application for approval of the project pursuant to section 474.01 shows that a reduction in debt service charges is estimated to result and will be reflected in charges to patients and third party payors. Proceeds of revenue bonds issued pursuant to this subdivision may not be used for any purpose inconsistent with the provisions of chapter 256B. Nothing in this subdivision prohibits the use of revenue bond proceeds to pay outstanding indebtedness of a contracting party to the extent permitted by law on March 28, 1978.

Subd. 5. **Revenue agreements.** It may enter into a revenue agreement with any person, firm, or public or private corporation or federal or state governmental subdivision or agency so that payments required thereby to be made by the contracting party are fixed and revised from time to time as necessary to produce income and revenue sufficient to provide for the prompt payment of principal of and interest on all bonds issued hereunder when due. The revenue agreement must also provide that the contracting party is required to pay all expenses of the operation and maintenance of the project including, but without limitation, adequate insurance thereon and insurance against all liability for injury to persons or property arising from its operation, and all taxes and special assessments levied upon or with respect to the project and payable during the term of the revenue agreement; during which term, except as provided in subdivision 17, a tax shall be imposed and collected upon the project or, pursuant to the provisions of section 272.01, subdivision 2, for the privilege of using and possessing the project, in the same amount and to the same extent as though the contracting party were the owner of all real and personal property comprising the project.

Subd. 6. **Pledge of revenues.** It may pledge and assign to the holders of the bonds or a trustee therefor all or any part of the revenues of one or more projects and define and segregate the revenues or provide for the payment thereof to a

trustee, whether or not the trustee is in possession of the project under a mortgage or otherwise.

Subd. 7. Security interests. It may mortgage or otherwise encumber or grant a security interest in any project and its revenues, or may permit a mortgage, encumbrance, or security interest to be granted by a contracting party to the revenue agreement, in favor of the municipality or redevelopment agency, the holders of the bonds, or a trustee therefor. However, in creating mortgage, encumbrance, or security interest a municipality or redevelopment agency does not have the power to obligate itself except with respect to the project and its revenues, unless otherwise specifically provided by law.

Subd. 8. Implementation of powers and covenants; construction and acquisition by contracting party. It may make all contracts, execute all instruments, and do all things necessary or convenient in the exercise of the powers herein granted, or in the performance of its covenants or duties, or in order to secure the payment of its bonds; including, but without limitation, a revenue agreement authorizing the contracting party, subject to any terms and conditions the municipality or redevelopment agency finds necessary or desirable and proper, to provide for the construction, acquisition, and installation of the buildings, improvements, and equipment to be included in the project by any means legally available to the contracting party and in the manner determined by the contracting party and without advertisement for bids unless advertisement by the contracting party is otherwise required by law.

Subd. 9. Intergovernmental agreements. It may enter into and perform contracts and agreements with other municipalities, political subdivisions, and state agencies, authorities, and institutions as the governing body of the municipality or redevelopment agency may deem proper and feasible for or concerning the planning, construction, lease, purchase, mortgaging or other acquisition, and the financing of a project, and the maintenance thereof, including an agreement whereby one municipality issues its revenue bonds in behalf of one or more other municipalities pursuant to revenue agreements with the same or different contracting parties, which contracts and agreements may establish a board, commission, or other body deemed proper for the supervision and general management of the facilities of the project. However, no municipality or redevelopment agency may enter into or perform any contract or agreement with any school district under which the municipality or redevelopment agency issues its revenue bonds or otherwise provides for the construction of school facilities and the school leases or otherwise acquires these facilities.

Subd. 10. Federal loans and grants. It may accept from any authorized agency of the federal government loans or grants for the planning, construction, acquisition, leasing, purchase, or other provision of any project, and enter into agreements with the agency respecting the loans or grants.

Subd. 11. Conveyance of projects. It may sell and convey all properties acquired in connection with projects, including without limitation the sale and conveyance thereof subject to a mortgage, or the sale and conveyance thereof under an option granted to the lessee of the project, for the price, and at the time the governing body of the municipality or redevelopment agency determines. However, no sale or conveyance of the properties may be made in a manner that impairs the rights or interests of the holders of any bonds issued under the authority of sections 474.01 to 474.13.

Subd. 12. Refunding. It may issue revenue bonds to refund, in whole or in part, bonds previously issued by the municipality or redevelopment agency under authority of sections 474.01 to 474.13, and interest on them.

Subd. 13. Termination of revenue agreement. If so provided in the revenue agreement, it may terminate the agreement and re-enter or repossess the project

upon the default of the contracting party, and operate, lease, or sell the project in the manner authorized or required by the provisions of the revenue agreement or of the resolution or indenture securing the bonds issued for the project. Any revenue agreement which includes provision for a conveyance of real estate to the contracting party may be terminated in accordance with the revenue agreement, notwithstanding that the revenue agreement may constitute an equitable mortgage.

Subd. 14. Limitations on powers. It may not operate any project referred to in sections 474.01 to 474.13 as a business or in any manner whatsoever, except as authorized in subdivision 13. Nothing in this section authorizes any municipality or redevelopment agency to expend any funds on any project herein described, other than the revenues of the project, or the proceeds of revenue bonds and notes issued hereunder, or other funds granted to the municipality or redevelopment agency for the purposes herein contemplated, except:

(1) as is otherwise permitted by law;

(2) to enforce any right or remedy under any revenue agreement or related agreement for the benefit of the bondholders or for the protection of any security given in connection with a revenue agreement; or

(3) to pay without reimbursement part or all of the public cost of redevelopment of land including the acquisition of the site of the project, which cost shall not be deemed part of the cost of the project.

Subd. 15. Investment and deposit of funds. It may invest or deposit, or authorize a trustee to invest or deposit, any proceeds of revenue bonds or notes issued pursuant to sections 474.01 to 474.13, and income from the investment of the proceeds, in any manner and upon any terms and conditions agreed to by the contracting party under the related revenue agreement, resolution, or indenture, notwithstanding chapter 118 or section 471.56 or 475.56, but subject to any statutory provisions which govern the deposit and investment of funds of a contracting party which is itself a governmental subdivision or agency.

Subd. 16. Contractor's bond and mechanics' liens. It may waive or require the furnishing of a contractor's payment and performance bond of the kind described in section 574.26, whether or not the municipality or redevelopment agency is a party to the construction contract. If the bond is required, the provisions of chapter 514 relating to liens for labor and materials are not applicable with respect to work done or labor or materials supplied for the project. If the bond is waived, the provisions of chapter 514 apply with respect to work done or labor or materials supplied for the project.

Subd. 17. Valuation of unfinished sale or rental projects. If a building is to be constructed for sale or rent to a contracting party, the building is exempt from taxation as public property exclusively used for a public purpose until the building is first conveyed or first occupied by the lessee, in whole or in part, whichever occurs first, up to a maximum of four years from the date of issue of bonds or notes for the project, provided that the exemption must be applied for before October 10 of the year of the levy of the first taxes to which the exemption applies.

History: 1967 c 297 s 3; 1973 c 314 s 2; 1975 c 422 s 13; 1978 c 609 s 6; 1979 c 147 s 2; 1979 c 306 s 12; 1980 c 480 s 4; 1980 c 516 s 2; 1Sp1981 c 4 art 1 s 53; 1982 c 405 s 4; 1982 c 523 art 37 s 2; 1982 c 614 s 10; 1983 c 216 art 1 s 71; 1983 c 365 s 1; 1984 c 633 s 11

474.04 AUTHORIZATION OF PROJECTS AND BONDS.

The acquisition, construction, reconstruction, improvement, betterment, or extension of any project, the execution of any revenue agreement or mortgage pertaining thereto, and the issuance of bonds in anticipation of the collection of the

revenues of such project to provide funds to pay for the cost thereof, may be authorized by an ordinance or resolution of the governing body adopted at a regular or duly called special meeting thereof by the affirmative vote of a majority of its members. No election shall be required to authorize the use of any of the powers conferred by sections 474.01 to 474.13. No lease of any project shall be subject to the provisions of section 504.02, unless expressly so provided in the lease.

History: 1967 c 297 s 4; Ex1971 c 31 art 24 s 4; 1973 c 314 s 3; 1975 c 422 s 14

474.05 DETERMINATION OF COST OF PROJECT.

In determining the cost of a project, the governing body may include all cost and estimated cost of the acquisition, construction, reconstruction, improvement, betterment, and extension of the project, all engineering, inspection, fiscal, legal, administrative, and printing expense, the interest which it is estimated will accrue during the construction period and for six months thereafter on money borrowed or which it is estimated will be borrowed pursuant to sections 474.01 to 474.13, and bond reserves and premiums for insurance of lease rentals pledged to pay the bonds.

History: 1967 c 297 s 5; Ex1971 c 31 art 24 s 5; 1975 c 422 s 15

474.06 MANNER OF ISSUANCE OF BONDS; INTEREST RATE.

Bonds authorized under sections 474.01 to 474.13 must be issued in accordance with the provisions of chapter 475 relating to bonds payable from income of revenue producing conveniences, except that public sale is not required, and the bonds may mature at the time or times in such amount or amounts within 30 years from date of issue and may be sold at a price equal to the percentage of the par value thereof, plus accrued interest, and bearing interest at the rate or rates agreed by the contracting party, the purchaser, and the municipality or redevelopment agency, notwithstanding any limitation of interest rate or cost or of the amounts of annual maturities contained in any other law, and bonds issued to refund bonds previously issued pursuant to sections 474.01 to 474.13 may be issued in amounts as may be determined by the municipality or redevelopment agency notwithstanding the provisions of section 475.67, subdivision 3.

History: 1967 c 297 s 6; 1969 c 1061 s 1; Ex1971 c 31 art 24 s 6; 1973 c 314 s 4; 1974 c 288 s 2; 1975 c 422 s 16; 1978 c 609 s 7; 1980 c 607 art 8 s 1; 1982 c 523 art 3 s 1; 1983 c 365 s 2

474.07 TEMPORARY LOANS.

The governing body shall have the power, after the authorization of bonds pursuant to section 474.04, to provide funds immediately required for the purpose and not exceeding the amount of such bonds, by effecting temporary loans upon such terms as it shall by resolution determine, evidenced by notes subject to the provisions of section 474.10, due in not exceeding 24 months from the date thereof, payable to the order of the lender or to bearer, to be repaid with interest from the proceeds of such bonds when issued and delivered to the purchaser thereof. Such temporary loans may be made without any public advertisement.

History: 1967 c 297 s 7

474.08 VALIDITY OF BONDS; PRESUMPTION.

The validity of bonds or notes issued hereunder shall not be dependent on nor be affected by the validity or regularity of any proceedings relating to the acquisition, purchase, construction, reconstruction, improvement, betterment, or extension

of the project for which the same are issued. The ordinance or resolution authorizing such bonds or notes may provide that the bonds or notes shall contain a recital that they are issued pursuant to sections 474.01 to 474.13, and such recital shall be conclusive evidence of their validity and of the regularity of their issuance.

History: 1967 c 297 s 8; 1975 c 422 s 17

474.09 LIMITATION OF POWERS BY RESOLUTION OR ORDINANCE.

Any ordinance, resolution, revenue agreement, indenture or other instrument authorizing the issuance of bonds under sections 474.01 to 474.13 to finance, in whole or in part, the acquisition, construction, reconstruction, improvement, betterment, or extension of any project may contain covenants, notwithstanding that such covenants may limit the exercise of powers conferred by sections 474.01 to 474.13 as to:

(1) The rents or installment payments to be charged for the use or purchase of properties acquired, constructed, reconstructed, improved, bettered, or extended under the authority of sections 474.01 to 474.13;

(2) The use and disposition of the revenues of such projects;

(3) The creation and maintenance of sinking funds and the regulation, use, and disposition thereof;

(4) The creation and maintenance of funds to provide for maintaining the project and replacement of properties depreciated, damaged, destroyed, or condemned;

(5) The purpose, or purposes, to which the proceeds of sale of bonds may be applied and the use and disposition of such proceeds;

(6) The nature of mortgages or other encumbrances on the project;

(7) The events of default and the rights and liabilities arising thereon and the terms and conditions upon which the holders of bonds may bring any suit or action on such bonds or on any coupons appurtenant thereto;

(8) The issuance of other or additional bonds or instruments payable from or constituting a charge against the revenue of the project;

(9) The insurance to be carried upon the project and the use and disposition of insurance moneys;

(10) The keeping of books of account and the inspection and audit thereof;

(11) The terms and conditions upon which any or all of the bonds shall become or may be declared due before maturity and the terms and conditions upon which such declaration and its consequences may be waived;

(12) The rights, liabilities, powers, and duties arising upon the breach by the municipality or redevelopment agency of any covenants, conditions, or obligations;

(13) The vesting in a trustee or trustees of the right to enforce any covenants made to secure or to pay the bonds; the powers and duties of such trustee or trustees, and the limitation of his or its liabilities;

(14) The terms and conditions upon which the holder or holders of the bonds, or the holders of any proportion or percentage of them, may enforce any covenants made under sections 474.01 to 474.13 or any duties imposed thereby;

(15) A procedure by which the terms of any ordinance or resolution authorizing bonds or of any other contract with bondholders, including, but not limited to, an indenture of trust or similar instrument, may be amended or abrogated, and the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given; and

(16) The subordination of the security of any bonds issued hereunder and the payment of principal and interest thereof, to the extent deemed feasible and desirable by the governing body, to other bonds or obligations of the municipality or redevelopment agency issued to finance the project or that may be outstanding when the bonds thus subordinated are issued and delivered.

History: 1967 c 297 s 9; 1973 c 314 s 5; 1975 c 422 s 18

474.10 SOURCE OF PAYMENT FOR BONDS.

Subdivision 1. Revenue bonds issued under sections 474.01 to 474.13 shall not be payable from nor charged upon any funds other than the revenue pledged to the payment thereof, except as provided in this section, nor shall the municipality or redevelopment agency issuing the same be subject to any liability thereon. No holder or holders of such bonds shall ever have the right to compel any exercise of the taxing power of the municipality or redevelopment agency to pay any such bonds or the interest thereon, except as provided in subdivision 2, nor to enforce payment thereof against any property of the municipality or redevelopment agency except those projects, or portions thereof, mortgaged or otherwise encumbered under the provisions and for the purpose of sections 474.01 to 474.13.

Subd. 2. Any municipality or redevelopment agency may request the county auditor of the county in which a project is situated to certify the original taxable value of the real property included therein and the tax increments realized each year after the commencement of the project, as defined in section 462.585, and shall be entitled to receive, use, and pledge such tax increments for the further security of the revenue bonds issued to finance the project, in either of the following ways:

- (1) To pay premiums for insurance guaranteeing the payment of net rentals when due under the project lease; or
- (2) To accumulate and maintain a reserve securing the payment when due of the principal of and interest on the bonds.

The provisions of this subdivision shall not apply to a project, certification of which is requested subsequent to August 1, 1979.

Subd. 3. Tax increments with respect to any industrial development project shall be segregated and specially accounted for by the county treasurer until all bonds issued to finance the project have been fully paid; but the county treasurer shall remit the same to the municipality or redevelopment agency only in the amount certified to him to be required for any of the purposes stated in subdivision 2. The amount so needed shall be certified annually to the county auditor and treasurer by the municipality or redevelopment agency on or before October 1. Any tax increment remaining in any year after such remittance shall, when collected, be distributed among all of the taxing districts levying taxes on the project area, in proportion to the amounts so levied by them, respectively. The provisions of this subdivision shall not apply to a project, certification of which is requested subsequent to August 1, 1979.

Subd. 4. Such bonds shall not constitute a charge, lien, or encumbrance, legal or equitable, upon any property of the municipality or redevelopment agency, except those projects, or portions thereof, mortgaged or otherwise encumbered under the provisions and for the purposes of sections 474.01 to 474.13. Each bond issued hereunder shall recite in substance that the bond, including interest thereon, is payable solely from the revenue pledged to the payment thereof, but may contain a reference to the lease insurance or bond reserve for which the tax increment is pledged and appropriated. No such bond shall constitute a debt of the municipality or redevelopment agency within the meaning of any constitutional or statutory limitation. However, nothing herein shall impair the rights of holders of bonds

issued hereunder to enforce covenants made for the security thereof as provided in section 474.11.

History: 1967 c 297 s 10; 1969 c 1061 s 2; 1975 c 422 s 19,20; 1979 c 322 s 23,24

474.11 BONDHOLDERS' RIGHTS AND REMEDIES.

Subject to any contractual limitations binding upon the holders of any issue of revenue bonds, or a trustee therefor, including but not limited to the restriction of the exercise of any remedy to a specified proportion or percentage of such holders, any holder of bonds, or any trustee therefor, for the equal benefit and protection of all bondholders similarly situated, may:

(1) By suit, action, or proceeding at law or in equity, enforce his or its rights against the municipality or redevelopment agency and its governing body and any of its officers, agents, and employees, and may require and compel such municipality or redevelopment agency or such governing body or any such officers, agents, or employees to perform and carry out its and their duties and obligations under sections 474.01 to 474.13 and its and their covenants and agreements with bondholders;

(2) By action require the municipality or redevelopment agency and the governing body thereof to account as if they were the trustees of an express trust;

(3) By action enjoin any acts or things which may be unlawful or in violation of the rights of the bondholders;

(4) Bring suit upon the bonds;

(5) Foreclose any mortgage or lien given under the authority of sections 474.01 to 474.13, and cause the property standing as security to be sold under any proceedings permitted by law or equity; and

(6) Exercise any right or remedy conferred by sections 474.01 to 474.13 without exhausting and without regard to any other right or remedy conferred by sections 474.01 to 474.13 or any other law of this state; none of which rights and remedies is intended to be exclusive of any other, and each is cumulative and in addition to every other right and remedy.

History: 1967 c 297 s 11; 1975 c 422 s 21

474.12 [Repealed, 1983 c 213 s 25]

474.13 POWERS ADDITIONAL AND SUPPLEMENTAL APPLICATION OF EXISTING LAWS AND RULES.

The powers conferred by sections 474.01 to 474.13 shall be in addition and supplemental to the powers conferred by any other law or charter. Insofar as the provisions of any other law or charter are inconsistent herewith, the provisions hereof shall be controlling as to projects instituted under sections 474.01 to 474.13. Section 334.01 shall not apply to any interest rate charged or attributable to any obligation of a contracting party or sublessee or subtenant of a contracting party in connection with any project for which the proceedings are conducted, wholly or partly, pursuant to sections 474.01 to 474.13. In all cases in which a project involves telephonic communications conducted by or to be conducted by a telephone company, all laws of the state, and rules and regulations of the department of public service, that apply to property owned by a telephone company including without limitation laws and regulations relating to taxation and valuation of telephone company property, shall similarly apply to any real and personal property acquired, in whole or in part, by the issuance of bonds as authorized herein and, in these cases,

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in the issuance of any bonds pursuant to sections 474.01 to 474.13, sections 474.01 to 474.13 shall control, notwithstanding the provisions of chapter 452, or any other general or special law relating to municipal or town telephone companies.

History: 1967 c 97 s 13; 1974 c 338 s 4; 1975 c 422 s 23

474.15 APPLICABILITY OF CERTAIN PROVISIONS OF CHAPTER 462.

Property which has been acquired by a housing and redevelopment authority pursuant to the provisions of chapter 462, if sold, leased or acquired with the consent of such housing and redevelopment authority in connection with a project conducted wholly or partly pursuant to the provisions of this chapter shall be deemed to be devoted to public purposes and public uses and to conform to the project area redevelopment plan within the meaning of chapter 462, and in giving such consent the housing and redevelopment authority may waive any or all of the terms, conditions, restrictions and limitations imposed upon such property by section 462.525, and the purchaser of such property or any subsequent purchasers shall have full power to convey the property without consent of any housing and redevelopment authority and, to the extent of such waiver, free and clear of such terms, conditions, restrictions and limitations whether or not such purchaser has obligated himself as provided in section 462.525, subdivision 5.

History: 1975 c 422 s 24

474.16 DEFINITIONS.

Subdivision 1. For the purposes of sections 474.16 to 474.23, the terms defined in this section have the meaning given them.

Subd. 2. "Local issuer" means any home rule charter or statutory city, any town, any housing and redevelopment authority referred to in chapter 462 or any body authorized to exercise the powers of a housing and redevelopment authority, any port authority referred to in chapter 458 or any body authorized to exercise the powers of a port authority, any area or municipal redevelopment agency referred to in chapter 472, any county, or any other municipal authority or agency established pursuant to special law other than the iron range resources and rehabilitation board, acting as an issuer of obligations pursuant to law.

Subd. 3. "Entitlement issuer" means a local issuer with an average annual previous use of \$1,000,000 or more based on the highest annual use in three of the calendar years from 1980 to 1983.

Subd. 4. "Previous use" means the principal amount of obligations of a type subject to limitation under the terms of a federal limitation act issued by a local issuer during a specified period. Prior to enactment by Congress of the United States of America of a federal limitation act, "previous use" means the principal amount of obligations of a type subject to limitation under the terms of section 721 of the Tax Reform Bill of 1984, H.R. 4170, as reported by the Ways and Means Committee of the United States House of Representatives on March 5, 1984, issued by a local issuer during a specified period.

Subd. 5. "Federal limitation act" means an act of Congress of the United States of America other than the Mortgage Subsidy Bond Tax Act of 1980, Public Law Number 96-499, section 1102(a) and amendments to it, amending the Internal Revenue Code of 1954, to limit the aggregate amount of obligations of a specified type or types which may be issued by an issuing authority during any calendar year whose interest is exempt from inclusion in gross income for purposes of federal income taxation pursuant to section 103(a) of the Internal Revenue Code of 1954, as

amended, and providing for an allocation of issuing authority by the legislature of a state.

History: 1984 c 582 s 13

NOTE: This section, as added by Laws 1984, chapter 582, section 13, is repealed effective January 1, 1986. See Laws 1984, chapter 582, section 23.

FEDERAL LIMITATIONS; ALLOCATIONS

474.17 ALLOCATION OF PRIVATE ACTIVITY BONDS.

Subdivision 1. **Higher education coordinating board allocation.** \$30,000,000 for calendar year 1984 and \$10,000,000 for calendar year 1985 of the aggregate limit of bond issuance authority allocated to the state pursuant to a federal limitation act is allocated to the higher education coordinating board for the issuance of obligations pursuant to chapter 136A. On September 1, 1985, any unused portion of the bonding authority allocated to the higher education coordinating board shall be canceled and the authority shall be allocated pursuant to section 474.19. If the energy and economic development authority determines that pursuant to a federal limitation act, the higher education coordinating board cannot issue obligations whose interest is exempt from inclusion in gross income for purposes of federal income taxation pursuant to section 103(a) of the Internal Revenue Code of 1954, as amended, this allocation shall cancel and the allocation provided in subdivision 3 shall be increased to \$55,000,000 for calendar year 1984 and to \$65,000,000 for calendar year 1985.

Subd. 2. **Iron range resources and rehabilitation allocation.** From January 1 to August 31 of each calendar year, \$25,000,000 of the aggregate limit of bond issuance authority allocated to the state for any calendar year pursuant to a federal limitation act is allocated to the iron range resources and rehabilitation commissioner. From September 1 to October 31 of each year, the iron range resources and rehabilitation commissioner may retain his allocation or a portion of it only if he has submitted to the energy and economic development authority on or before September 1 a letter which states (a) his intent to issue obligations pursuant to his allocation or a portion of it before the end of the calendar year or within the time period permitted by a federal limitation act and (b) a description of the specific project or projects for which the obligations will be issued, together with an application deposit in the amount of one percent of the amount of the remaining unused allocation or the portion of it pursuant to which he intends to issue obligations. If the iron range resources and rehabilitation commissioner does not submit the required letter of intent and the application deposit, the amount originally allocated to the iron range resources and rehabilitation commissioner or the portion not already used not subject to a letter of intent shall be canceled and subject to reallocation in accordance with section 474.19. If the iron range resources and rehabilitation commissioner returns for reallocation all or any part of his allocation on or before October 31, that portion of his application deposit equal to one percent of the amount returned shall be refunded within 30 days. The iron range resources and rehabilitation commissioner may enter into a joint powers agreement with any other state or municipal entity which has authority to issue obligations subject to a federal limitation act whereby the other entity issues the bonds on behalf of the iron range resources and rehabilitation commissioner.

Subd. 3. **Energy and economic development authority allocation.** From January 1 to August 31 of calendar year 1984, \$40,000,000 and for calendar year 1985 \$60,000,000 of the aggregate limit of bond issuance authority allocated to the state pursuant to a federal limitation act is allocated to the energy and economic development authority for use or allocation pursuant to section 116J.58, clause (2).

From September 1 to October 31 of each year, the energy and economic development authority or any entity which receives an allocation from the energy and economic development authority pursuant to section 116J.58, clause (2), may retain its allocation or a portion of it only if it has submitted to the division of the energy and economic development authority responsible for administering Laws 1984, chapter 582, on or before September 1 a letter which states (a) its intent to issue obligations pursuant to its allocation or a portion of it before the end of the calendar year or within the time period permitted by a federal limitation act, and (b) a description of the specific project or projects for which the obligations will be issued, together with an application deposit in the amount of one percent of the amount of its remaining unused allocation or the portion of it pursuant to which it intends to issue obligations. If the energy and economic development authority or any entity which receives an allocation from the energy and economic development authority pursuant to section 116J.58, clause (2), does not submit the required letter of intent and the application deposit, the amount originally allocated to the energy and economic development authority or any entity which receives an allocation from the energy and economic development authority pursuant to section 116J.58, clause (2), or the portion not already used and not subject to a letter of intent shall be canceled and subject to reallocation in accordance with section 472.09, subdivision 8. If the energy and economic development authority or any entity which receives an allocation from the energy and economic development authority pursuant to section 116J.58, clause (2), returns for reallocation all or any part of its allocation on or before October 31, that portion of its application deposit equal to one percent of the amount returned shall be refunded within 30 days.

Subd. 4. Local issuer allocation. Any amount of the aggregate limit of bond issuance authority allocated to the state for any calendar year pursuant to a federal limitation act which is not allocated pursuant to subdivisions 1 to 3 shall be allocated among local issuers pursuant to sections 474.18 to 474.23.

History: 1983 c 289 s 115 subd 1; 1984 c 582 s 14

NOTE: This section, as added by Laws 1984, chapter 582, section 14, is repealed effective January 1, 1986. See Laws 1984, chapter 582, section 23.

474.18 ALLOCATION AMONG ENTITLEMENT ISSUERS.

Subdivision 1. Allocation amounts. From January 1 to August 31 of each calendar year, 80 percent of the amount of authority determined pursuant to section 474.17 shall be available solely for issuance of obligations by entitlement issuers.

Subd. 2. Allocation procedure. To obtain an allocation pursuant to this section, an entitlement issuer shall within 30 days after April 27, 1984, submit to the energy and economic development authority a certification as to previous use for the four preceding calendar years, and the average annual previous use for the highest three of the four preceding calendar years. Within 15 days thereafter, the energy and economic development authority shall determine and publish the amount of issuance authority allocated to each entitlement issuer which submitted the information required above. The amount of authority for an issuer is the aggregate authority allocated to entitlement issuers pursuant to subdivision 1, multiplied by a fraction. The numerator of the fraction is the highest three-year previous use average as certified by the entitlement issuer. The denominator of the fraction is the combined highest three-year previous use average as certified by all entitlement issuers. Local issuers with boundaries which are coterminous shall be treated as a single issuer for purposes of determining their entitlement allocation, if any.

In such cases the amount of the issuance authority to be allocated to each issuer shall be determined by the city council in the case of a city or the county board in the case of a county. The entitlement issuer may allocate its entitlement allocation

to any project for which obligations are issued or are to be issued after December 31, 1983, without regard to any preliminary resolutions which have been adopted for any project.

Within 15 days after the effective date of a federal limitation act, any issuer who submitted a certification in accordance with the first paragraph of this subdivision shall submit a new certification as to previous use as defined in accordance with the federal limitation act for the highest three of the four preceding calendar years. Within 15 days thereafter, the energy and economic development authority shall determine and publish the revised amount of issuance authority allocated to each issuer that is an entitlement issuer that submitted the information required by this subdivision. Failure to submit the new certification required by this paragraph shall result in forfeiture of unused previously allocated issuance authority. The revised amount of issuance authority for each entitlement issuer shall be determined in accordance with the first paragraph of this subdivision, but shall be reduced by the principal amount of obligations issued by the entitlement issuer prior to the date of the determination. If the revised amount of issuance authority for any entitlement issuer is less than zero, the amount shall reduce the amount otherwise available for allocation pursuant to section 474.19, subdivision 1. The principal amount of any obligations issued by a local issuer that does not qualify as an entitlement issuer based on previous use determined in accordance with the federal limitation act, but issued pursuant to an allocation published in accordance with the first paragraph of this subdivision, shall reduce the amount otherwise available for allocation pursuant to section 474.19, subdivision 1.

Subd. 3. Letter of intent. From September 1 to October 31 of each year, an entitlement issuer may retain its allocation or a portion of it only if it has submitted to the energy and economic development authority on or before September 1 a letter which states its intent to issue obligations pursuant to its allocation or a portion of it before the end of the calendar year or within the time period permitted by a federal limitation act, together with an application deposit in the amount of one percent of the amount of its remaining unused allocation or the portion of it pursuant to which it intends to issue obligations. If an entitlement issuer does not submit the required letter of intent and the application deposit, the amount originally allocated to the entitlement issuer or the portion not already used and not subject to a letter of intent shall be canceled and subject to reallocation in accordance with section 474.19. If an entitlement issuer returns for reallocation all or any part of its allocation on or before October 31, that portion of its application deposit equal to one percent of the amount returned shall be refunded within 30 days.

Subd. 4. Joint powers. An entitlement issuer may enter an agreement with a local issuer or the iron range resources and rehabilitation commissioner or the energy and economic development authority by which the local issuer or the iron range resources and rehabilitation commissioner or the energy and economic development authority issues bonds pursuant to issuance authority allocated to the entitlement issuer pursuant to this section. The amount of the issuance shall be considered as issued by the issuer granting use of its allocation for purposes of previous use determination.

History: 1983 c 289 s 115 subd 1; 1984 c 582 s 15

NOTE: This section, as added by Laws 1984, chapter 582, section 15, is repealed effective January 1, 1986. See Laws 1984, chapter 582, section 23.

474.19 ALLOCATION OF POOL AMOUNT.

Subdivision 1. Pool amount. From January 1 to August 31 of each year, 20 percent of the amount determined pursuant to section 474.17 shall be available solely for local issuers that do not qualify as entitlement issuers and shall be allocated as

provided in this section. From September 1 to October 31 of any calendar year, any amounts remaining available for allocation or reallocation pursuant to section 474.18 or this section shall be allocated among all local issuers and the energy and economic development authority and the iron range resources and rehabilitation commissioner, pursuant to this section. An entitlement issuer, the energy and economic development authority or the iron range resources and rehabilitation commissioner may apply for an allocation pursuant to this section only if the applicant has issued bonds equal to any allocation received pursuant to section 474.17 or 474.18 or has returned any remaining allocation for reallocation pursuant to this section.

Subd. 2. Application. A local issuer that is not an entitlement issuer may apply for an allocation of bond issuance authority pursuant to this section by submitting to the energy and economic development authority on or before the 20th day of any month from December to September an application on forms provided by the energy and economic development authority, accompanied by (i) a resolution of the local issuer expressing a preliminary intention to issue obligations adopted in accordance with section 474.01, subdivision 7b, if applicable, which identifies the proposed project and the proposed amount of the obligations to be issued; and (ii) an application deposit in the amount of one percent of the requested allocation. A local issuer may enter into a joint powers agreement with any other state or municipal entity which has authority to issue obligations subject to a federal limitation act whereby the other entity issues the bonds on behalf of the local issuer for the project for which an allocation was received by the local issuer. A local issuer may request an allocation for obligations issued prior to the effective date of this subdivision. A local issuer may elect not to submit an application for an allocation of bond issuance authority for a project for which the local issuer previously adopted a preliminary resolution.

After July 31 of any year, an entitlement issuer may also apply for an allocation under this section. Its application need not comply with clause (i).

Subd. 3. Allocation criteria. The energy and economic development authority shall rank each application on the basis of the number of points awarded to it, with one point being awarded for each of the following criteria satisfied:

(1) The current rate of unemployment for the applicant is at or above 110 percent of the statewide average unemployment rate for the previous year, as determined by the department of economic security. The unemployment rate for the applicant shall be the greater of (i) the most recent estimate available for the smallest jurisdiction which wholly includes the jurisdiction of the applicant, as reported by the department of economic security, or (ii) another estimate supplied by the applicant with respect to its jurisdiction, which is documented by the applicant.

(2) The number of individuals employed in the applicant's jurisdiction declined from the second calendar year before the application, to the first calendar year before the application. The estimate of the number of individuals employed for each year shall be based on the same source, and shall be (i) the most recent estimate available for the smallest jurisdiction which wholly includes the applicant, as reported by the department of economic security, or (ii) another estimate supplied by the applicant with respect to its jurisdiction, which is documented by the applicant.

(3) The number of jobs to be created by the project described in the application is at least 1/10 of one percent of the number of individuals employed in the applicant's jurisdiction in the first calendar year before the application as determined in the manner provided in clause (2).

(4) The number of jobs to be created by the project described in the application is at least two jobs for each \$100,000 of issuance authority requested for the project.

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(5) As of the date of application the total market value of all taxable property in the applicant's jurisdiction, as based on the most recent certification of assessed value to the commissioner of revenue, has either (i) declined in relation to the first calendar year before the certification, or (ii) increased in relation to the first calendar year before the certification at a rate which is not in excess of 90 percent of the rate of increase of the state average market value over the same period.

(6) The estimated market value of the project described in the application is at least one-half of one percent of the total market value of all taxable property in the applicant's jurisdiction as based on the most recent certification of assessed value to the commissioner of revenue.

(7) The project is wholly located in an enterprise zone designated pursuant to section 273.1312.

(8) The project site meets the criteria necessary to qualify as a tax increment redevelopment district as defined in section 273.73, subdivision 10. To qualify under this clause the project need not be included in a tax increment financing district.

(9) The project meets one of the following energy conservation criteria: (i) the project is eligible for the additional federal investment tax credits for energy property, (ii) the project involves construction or expansion of a district heating system as defined in section 116J.36, or (iii) the project involves construction of an alternative energy source as described in section 116J.26, clause (a), (b), or (d), or 116J.922, subdivision 6 or 7.

(10) Ninety percent or more of the proceeds of the proposed obligations will be used for construction, installation, or addition of equipment used primarily to abate or control pollutants to meet or exceed state laws, rules, or standards.

(11) The project consists of the renovation, rehabilitation, or reconstruction of an existing building which is (i) located in a historic district designated under section 138.73, or on a site listed in the state registry of historical sites under sections 138.53 to 138.5819; or (ii) designated in the National Register pursuant to United States Code, title 16, section 470a.

(12) Ninety percent or more of the proceeds of the proposed obligations will be used to finance facilities for waste management as defined in section 115A.03, subdivision 36, or solid waste as defined in section 116.06, subdivision 10.

(13) Service connections to sewer and water systems are available to the project at the time the application is submitted.

(14) The minority population in the applicant's jurisdiction is at least 110 percent of the statewide average as determined by the affirmative action division of the department of economic security according to the most recent census data.

(15) When the application is submitted either (a) neither the anticipated owner of the project, nor any party of which the owner was a controlling partner or shareholder, or which was a controlling shareholder or partner of the owner, owned or operated a substantially similar business within the state or (b) the project is an expansion of the operations of an existing business which is not likely to have the effect of transferring existing employment from one or more other municipalities within the state to the municipality in which the project is located.

(16) A controlling interest in the project will be owned by one or more women or minority persons.

(17) Seventy-five percent or more of the proceeds of the proposed issue will be used to rehabilitate an existing structure.

(18) At the time of application, the property on which the project is to be located is properly zoned for the proposed use.

(19) The bond issue involves a credit enhancement device providing additional security for bondholders involving commitments or fees to be paid by the issuer other than from bond proceeds. No points shall be awarded for credit enhancement devices financed directly or indirectly by a private, for-profit party which has a financial interest in or is related to any party which has a financial interest in the project.

Subd. 4. Allocation procedure. The energy and economic development authority shall allocate available issuance authority to applications by the fifth day of the month succeeding each application deadline specified in subdivision 2 on the basis of the numerical rank determined pursuant to this section, but (i) no allocation shall be awarded to an application demonstrating less than four points, (ii) any project which is authorized by chapter 115A, chapter 400, or sections 473.801 to 473.834, shall receive an allocation of issuance authority without regard to its numerical rank to the extent that the amount of issuance authority allocated to the project when added to the issuance authority previously allocated during the calendar year pursuant to this clause does not exceed 49 percent of the amount provided in subdivision 1, provided that if obligations for any project described in this clause are not subject to a federal limitation act, no allocation shall be made pursuant to this clause, (iii) if on or before September 1, the energy and economic development authority returns a portion of its allocation for reallocation pursuant to this section, and the iron range resources and rehabilitation commissioner has issued obligations in an amount equal to its allocation or has submitted a letter of intent for any amount not issued, applications from the iron range resources and rehabilitation commissioner which demonstrate four or more points shall receive an allocation up to an amount equal to \$10,000,000 or the amount returned for reallocation by the energy and economic development authority or the amount remaining to be allocated, whichever is less, (iv) if on or before September 1, the iron range resources and rehabilitation commissioner returns a portion of his allocation for reallocation pursuant to this section, and the energy and economic development authority has issued obligations in an amount equal to its allocation or has submitted a letter of intent for any amount not issued, applications from the energy and economic development authority which demonstrate four or more points shall receive an allocation up to an amount equal to \$10,000,000 or the amount returned for reallocation by the iron range resources and rehabilitation commissioner or the amount remaining to be allocated, whichever is less, and (v) if two or more applications have the same numerical rank, the allocation of issuance authority as between the applications shall be by lot unless otherwise agreed by the respective local issuers. If an application is rejected, the energy and economic development authority shall return the application deposit to the applicant within 30 days.

Subd. 5. Letter of intent. A local issuer which has received an allocation pursuant to this section prior to September 1 and which intends to issue obligations pursuant to it after August 31 of the year in which the allocation was received, shall submit to the energy and economic development authority on or before September 1 a letter stating its intent to issue bonds before the end of the calendar year or within the time period permitted by a federal limitation act. If the letter of intent is not submitted to the energy and economic development authority, the one percent application deposit shall be returned to the local issuer, the issuance authority shall be canceled, and the issuance authority previously allocated to the local issuer will be available for reallocation pursuant to this section. If a local issuer returns for reallocation all or any part of its allocation on or before October 31, that portion of its application deposit equal to one percent of the amount returned shall be refunded within 30 days.

Subd. 6. **Final allocation.** From November 1 to December 31 of each year any amount determined pursuant to section 474.17, which is not both previously allocated and subject to a preliminary resolution for a specific project, whether or not committed pursuant to a letter of intent, shall be allocated among local issuers based on a ranking of points for criteria as set forth in subdivisions 3 and 4. No minimum number of points shall be required for allocation. If two or more applications receive an equal number of points, allocation among them shall be made by lot unless otherwise agreed by the respective applicants. An application for this allocation shall be submitted by October 20, shall include evidence of passage of a preliminary resolution giving approval to a specific project and stating that it is the intent of the applicant that the obligations will be issued by the end of the year or within the time period permitted by a federal limitation act, and shall be accompanied by an application deposit in the amount of one percent of the requested allocation. The energy and economic development authority shall notify applicants of their allocation on or before November 5.

Any amounts of authority which may become available for reallocation after November 5 shall be allocated among issuers which filed an application by October 20, pursuant to the criteria stated in subdivision 3.

Subd. 7. **Carryover allocation.** If prior to December 20 of any year, an issuer determines that it will not issue obligations pursuant to authority allocated to it pursuant to this section or section 459.35 or 462.556 by the end of that year or within the time period permitted by a federal limitation act, the issuer may notify the energy and economic development authority and such amount will be available for reallocation pursuant to this subdivision. In such case, the energy and economic development authority shall refund to the issuer within 30 days that portion of any application deposit equal to one-third of one percent of the amount returned for reallocation. The amounts available for reallocation shall be allocated on or before December 31 of each year among issuers which have submitted an application by December 10, and which have certified that the project to which the application relates qualifies for carryover treatment of allocated authority according to the terms of a federal limitation act, such that obligations may be issued pursuant to such allocation of authority after the end of the year, without expiration of such authority. If there is insufficient authority for allocation among applications received pursuant to this subdivision, allocation among them shall be made by lot unless otherwise agreed by the respective applicants.

History: 1983 c 289 s 115 subd 1; 1984 c 582 s 16

NOTE: This section, as added by Laws 1984, chapter 582, section 16, is repealed effective January 1, 1986. See Laws 1984, chapter 582, section 23.

474.20 NOTICES REQUIRED.

Subdivision 1. **Notice of issue.** Any issuer of obligations subject to limitation under a federal limitation act shall give a notice of issue stating the date of issuance of the obligations, the allocation under which the obligations are issued, and the principal amount of the obligations to the energy and economic development authority within five days after the obligations are issued. If the notice of issue is not filed within five days after the obligations are issued, the obligations shall be void unless this provision is waived by the energy and economic development authority. Within 30 days after receipt of the notice, the energy and economic development authority shall refund a portion of any application deposit equal to one percent of the principal amount of the obligations issued.

Subd. 2. **Notice of available authority.** The energy and economic development authority shall as soon as possible after the fifth day of each month publish in the State Register a notice of the amount of authority available for allocation or

reallocation in the following month as of the fifth day of the month during which the notice is published, after allocation of authority pursuant to section 474.19.

History: 1983 c 289 s 115 subd 1; 1984 c 582 s 17

NOTE: This section, as added by Laws 1984, chapter 582, section 17, is repealed effective January 1, 1986. See Laws 1984, chapter 582, section 23.

474.21 APPLICABILITY TO OTHER CHAPTERS.

Sections 474.16 to 474.23 apply to any issuance of obligations subject to limitation under a federal limitation act, whether issued under sections 474.01 to 474.13, or other law.

History: 1984 c 582 s 18

NOTE: This section, as added by Laws 1984, chapter 582, section 18, is repealed effective January 1, 1986. See Laws 1984, chapter 582, section 23.

474.22 LEGISLATIVE REVIEW.

On March 1, 1986, the energy and economic development authority shall deliver a comprehensive report to the secretary of the senate and the clerk of the house which provides detailed information concerning the allocation of issuing authority pursuant to sections 474.16 to 474.20.

History: 1983 c 289 s 115 subd 1; 1984 c 582 s 19

NOTE: This section, as added by Laws 1984, chapter 582, section 19, is repealed effective January 1, 1986. See Laws 1984, chapter 582, section 23.

474.23 ADDITIONAL CONDITIONS.

If a federal limitation act as defined in section 474.16, subdivision 5, is adopted, action under chapter 474 with respect to any project which is to be financed by obligations which are subject to a federal limitation act shall be subject to the following conditions:

(a) No municipality or redevelopment agency shall undertake any project, except a project referred to in section 474.02, subdivision 1f, unless its governing body finds that the project would not be undertaken but for the availability of industrial development bond financing.

(b) Notwithstanding any provision of this chapter, the term "project" shall not include: an airplane; a private luxury box; a facility primarily used for gambling; or a store the principal business of which is the sale of alcoholic beverages for consumption off premises.

(c) No more than ten percent of the proceeds of revenue bonds may be used to finance movable equipment not constituting a fixture, no more than 25 percent of the proceeds of revenue bonds may be used to finance the acquisition of land, and not more than \$10,000,000 in revenue bonds which are industrial development bonds subject to the exemption described in section 103(b)(6) of the Internal Revenue Code of 1954, as amended through December 31, 1983, may be issued with respect to any one building which is used for commercial, office or industrial purposes, without regard to ownership of condominium units within the building.

This section takes effect 90 days after the federal limitation act is signed by the president or passed over his veto.

History: 1984 c 582 s 20

NOTE: This section, as added by Laws 1984, chapter 582, section 20, is repealed effective January 1, 1986. See Laws 1984, chapter 582, section 23.

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474.24 ORDER OF THE GOVERNOR.

If for any reason the provisions of Laws 1984, chapter 582, do not become effective insofar as they provide for an allocation of issuing authority by the legislature of the state under a federal limitation act and if the governor may under the federal limitation act effect the allocation, the governor may provide for the allocation but only in accordance with the terms and conditions of Laws 1984, chapter 582.

History: 1984 c 582 s 22

NOTE: This section, as added by Laws 1984, chapter 582, section 22, is repealed effective January 1, 1986. See Laws 1984, chapter 582, section 23.

474.25 FEDERAL LIMITATION ACT.

The allocation of bonding authority provided by chapter 474 to the iron range resources and rehabilitation commissioner with respect to a federal limitation act is reduced by \$1,250,000 for calendar year 1984 and is reduced by \$500,000 for calendar year 1985. The allocation of bonding authority provided by chapter 474 for entitlement issuers with respect to a federal limitation act is reduced by \$1,250,000 for calendar year 1984 and is reduced by \$500,000 for calendar year 1985. The allocation of bonding authority provided by chapter 474 to local issuers who are not entitlement issuers with respect to a federal limitation act is reduced by \$1,250,000 for calendar year 1984 and is reduced by \$500,000 for calendar year 1985. The allocation of bonding authority provided by chapter 474 to the department of energy and economic development with respect to a federal limitation act is increased by \$3,750,000 for calendar year 1984 and \$1,500,000 for calendar year 1985. Until August 31 the department of energy and economic development shall make available at least \$5,000,000 for 1984 and \$6,000,000 for 1985 of its allocation of bonding authority for farm loans authorized by section 116J.90. For the November allocation in each year the commissioner shall approve applications from the department for farm loans to be made pursuant to section 116J.90 in an amount up to \$1,000,000 or the amount remaining to be allocated, whichever is less, prior to approving other applications.

History: 1984 c 584 s 12