CHAPTER 469

ECONOMIC DEVELOPMENT

469.002 DEFINITIONS.

[For text of subds 1 to 9, see M.S.1998]

Subd. 10. **Federal legislation.** "Federal legislation" includes the United States Housing Act of 1937, United States Code, title 42, sections 1401 to 1440, as amended through December 31, 1998; the National Housing Act, United States Code, title 12, sections 1701 to 1750g, as amended through December 31, 1989; and any other legislation of the Congress of the United States relating to federal assistance for clearance or rehabilitation of substandard or blighted areas, land assembly, redevelopment projects, or housing.

[For text of subds 11 to 24, see M.S.1998]

History: *1999 c 243 art 5 s 37*

469.012 POWERS, DUTIES.

Subdivision 1. **Schedule of powers.** An authority shall be a public body corporate and politic and shall have all the powers necessary or convenient to carry out the purposes of sections 469.001 to 469.047, except that the power to levy and collect taxes or special assessments is limited to the power provided in sections 469.027 to 469.033. Its powers include the following powers in addition to others granted in sections 469.001 to 469.047:

(1) to sue and be sued; to have a seal, which shall be judicially noticed, and to alter it; to have perpetual succession; and to make, amend, and repeal rules consistent with sections 469.001 to 469.047;

(2) to employ an executive director, technical experts, and officers, agents, and employees, permanent and temporary, that it requires, and determine their qualifications, duties, and compensation; for legal services it requires, to call upon the chief law officer of the city or to employ its own counsel and legal staff; so far as practicable, to use the services of local public bodies in its area of operation, provided that those local public bodies, if requested, shall make the services available;

(3) to delegate to one or more of its agents or employees the powers or duties it deems proper;

(4) within its area of operation, to undertake, prepare, carry out, and operate projects and to provide for the construction, reconstruction, improvement, extension, alteration, or repair of any project or part thereof;

(5) subject to the provisions of section 469.026, to give, sell, transfer, convey, or otherwise dispose of real or personal property or any interest therein and to execute leases, deeds, conveyances, negotiable instruments, purchase agreements, and other contracts or instruments, and take action that is necessary or convenient to carry out the purposes of these sections;

(6) within its area of operation, to acquire real or personal property or any interest therein by gifts, grant, purchase, exchange, lease, transfer, bequest, devise, or otherwise, and by the exercise of the power of eminent domain, in the manner provided by chapter 117, to acquire real property which it may deem necessary for its purposes, after the adoption by it of a

resolution declaring that the acquisition of the real property is necessary to eliminate one or more of the conditions found to exist in the resolution adopted pursuant to section 469.003 or to provide decent, safe, and sanitary housing for persons of low and moderate income, or is necessary to carry out a redevelopment project. Real property needed or convenient for a project may be acquired by the authority for the project by condemnation pursuant to this section. This includes any property devoted to a public use, whether or not held in trust, notwithstanding that the property may have been previously acquired by condemnation or is owned by a public utility corporation, because the public use in conformity with the provisions of sections 469.001 to 469.047 shall be deemed a superior public use. Property devoted to a public use may be so acquired only if the governing body of the municipality has approved its acquisition by the authority. An award of compensation shall not be increased by reason of any increase in the value of the real property caused by the assembly, clearance or reconstruction, or proposed assembly, clearance or reconstruction for the purposes of sections 469.001 to 469.047 of the real property in an area;

(7) within its area of operation, and without the adoption of an urban renewal plan, to acquire, by all means as set forth in clause (6) but without the adoption of a resolution provided for in clause (6), real property, and to demolish, remove, rehabilitate, or reconstruct the buildings and improvements or construct new buildings and improvements thereon, or to so provide through other means as set forth in Laws 1974, chapter 228, or to grade, fill, and construct foundations or otherwise prepare the site for improvements. The authority may dispose of the property pursuant to section 469.029, provided that the provisions of section 469.029 requiring conformance to an urban renewal plan shall not apply. The authority may finance these activities by means of the redevelopment project fund or by means of tax increments or tax increment bonds or by the methods of financing provided for in section 469.033 or by means of contributions from the municipality provided for in section 469.041, clause (9), or by any combination of those means. Real property with buildings or improvements thereon shall only be acquired under this clause when the buildings or improvements are substandard. The exercise of the power of eminent domain under this clause shall be limited to real property which contains, or has contained within the three years immediately preceding the exercise of the power of eminent domain and is currently vacant, buildings and improvements which are vacated and substandard. Notwithstanding the prior sentence, in cities of the first class the exercise of the power of eminent domain under this clause shall be limited to real property which contains, or has contained within the three years immediately preceding the exercise of the power of eminent domain, buildings and improvements which are substandard. For the purpose of this clause, substandard buildings or improvements mean hazardous buildings as defined in section 463.15, subdivision 3, or buildings or improvements that are dilapidated or obsolescent, faultily designed, lack adequate ventilation, light, or sanitary facilities, or any combination of these or other factors that are detrimental to the safety or health of the community;

(8) within its area of operation, to determine the level of income constituting low or moderate family income. The authority may establish various income levels for various family sizes. In making its determination, the authority may consider income levels that may be established by the Department of Housing and Urban Development or a similar or successor federal agency for the purpose of federal loan guarantees or subsidies for persons of low or moderate income. The authority may use that determination as a basis for the maximum amount of income for admissions to housing development projects or housing projects owned or operated by it;

(9) to provide in federally assisted projects any relocation payments and assistance necessary to comply with the requirements of the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and any amendments or supplements thereto;

(10) to make an agreement with the governing body or bodies creating the authority which provides exemption from all ad valorem real and personal property taxes levied or imposed by the body or bodies creating the authority. In the case of low-rent public housing that received financial assistance under the United States Housing Act of 1937, or successor federal legislation, an authority may make an agreement with the governing body or bodies creating the authority to provide exemption from all real and personal property taxes levied

or imposed by the state, city, county, or other political subdivision, for which the authority shall make payments in lieu of taxes to the state, city, county, or other political subdivisions as provided in section 469.040. The governing body shall agree on behalf of all the applicable governing bodies affected that local cooperation as required by the federal government shall be provided by the local governing body or bodies in whose jurisdiction the project is to be located, at no cost or at no greater cost than the same public services and facilities furnished to other residents;

(11) to cooperate with or act as agent for the federal government, the state or any state public body, or any agency or instrumentality of the foregoing, in carrying out any of the provisions of sections 469.001 to 469.047 or of any other related federal, state, or local legislation; and upon the consent of the governing body of the city to purchase, lease, manage, or otherwise take over any housing project already owned and operated by the federal government;

(12) to make plans for carrying out a program of voluntary repair and rehabilitation of buildings and improvements, and plans for the enforcement of laws, codes, and regulations relating to the use of land and the use and occupancy of buildings and improvements, and to the compulsory repair, rehabilitation, demolition, or removal of buildings and improvements. The authority may develop, test, and report methods and techniques, and carry out demonstrations and other activities for the prevention and elimination of slums and blight;

(13) to borrow money or other property and accept contributions, grants, gifts, services, or other assistance from the federal government, the state government, state public bodies, or from any other public or private sources;

(14) to include in any contract for financial assistance with the federal government any conditions that the federal government may attach to its financial aid of a project, not inconsistent with purposes of sections 469.001 to 469.047, including obligating itself (which obligation shall be specifically enforceable and not constitute a mortgage, notwithstanding any other laws) to convey to the federal government the project to which the contract relates upon the occurrence of a substantial default with respect to the covenants or conditions to which the authority is subject; to provide in the contract that, in case of such conveyance, the federal government may complete, operate, manage, lease, convey, or otherwise deal with the project until the defaults are cured if the federal government agrees in the contract to reconvey to the authority the project as then constituted when the defaults have been cured;

(15) to issue bonds for any of its corporate purposes and to secure the bonds by mortgages upon property held or to be held by it or by pledge of its revenues, including grants or contributions;

(16) to invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement, in property or securities in which savings banks may legally invest funds subject to their control or in the manner and subject to the conditions provided in section 118A.04 for the deposit and investment of public funds;

(17) within its area of operation, to determine where blight exists or where there is unsafe, unsanitary, or overcrowded housing;

(18) to carry out studies of the housing and redevelopment needs within its area of operation and of the meeting of those needs. This includes study of data on population and family groups and their distribution according to income groups, the amount and quality of available housing and its distribution according to rentals and sales prices, employment, wages, desirable patterns for land use and community growth, and other factors affecting the local housing and redevelopment needs and the meeting of those needs; to make the results of those studies and analyses available to the public and to building, housing, and supply industries;

(19) if a local public body does not have a planning agency or the planning agency has not produced a comprehensive or general community development plan, to make or cause to be made a plan to be used as a guide in the more detailed planning of housing and redevelopment areas;

(20) to lease or rent any dwellings, accommodations, lands, buildings, structures, or facilities included in any project and, subject to the limitations contained in sections 469.001 to

469.047 with respect to the rental of dwellings in housing projects, to establish and revise the rents or charges therefor;

(21) to own, hold, and improve real or personal property and to sell, lease, exchange, transfer, assign, pledge, or dispose of any real or personal property or any interest therein;

(22) to insure or provide for the insurance of any real or personal property or operations of the authority against any risks or hazards;

(23) to procure or agree to the procurement of government insurance or guarantees of the payment of any bonds or parts thereof issued by an authority and to pay premiums on the insurance;

(24) to make expenditures necessary to carry out the purposes of sections 469.001 to 469.047;

(25) to enter into an agreement or agreements with any state public body to provide informational service and relocation assistance to families, individuals, business concerns, and nonprofit organizations displaced or to be displaced by the activities of any state public body;

(26) to compile and maintain a catalog of all vacant, open and undeveloped land, or land which contains substandard buildings and improvements as that term is defined in clause (7), that is owned or controlled by the authority or by the governing body within its area of operation and to compile and maintain a catalog of all authority owned real property that is in excess of the foreseeable needs of the authority, in order to determine and recommend if the real property compiled in either catalog is appropriate for disposal pursuant to the provisions of section 469.029, subdivisions 9 and 10;

(27) to recommend to the city concerning the enforcement of the applicable health, housing, building, fire prevention, and housing maintenance code requirements as they relate to residential dwelling structures that are being rehabilitated by low- or moderate-income persons pursuant to section 469.029, subdivision 9, for the period of time necessary to complete the rehabilitation, as determined by the authority;

(28) to recommend to the city the initiation of municipal powers, against certain real properties, relating to repair, closing, condemnation, or demolition of unsafe, unsanitary, hazardous, and unfit buildings, as provided in section 469.041, clause (5);

(29) to sell, at private or public sale, at the price or prices determined by the authority, any note, mortgage, lease, sublease, lease purchase, or other instrument or obligation evidencing or securing a loan made for the purpose of economic development, job creation, redevelopment, or community revitalization by a public agency to a business, for-profit or nonprofit organization, or an individual;

(30) within its area of operation, to acquire and sell real property that is benefited by federal housing assistance payments, other rental subsidies, interest reduction payments, or interest reduction contracts for the purpose of preserving the affordability of low- and moderate-income multifamily housing;

(31) to apply for, enter into contracts with the federal government, administer, and carry out a section 8 program. Authorization by the governing body creating the authority to administer the program at the authority's initial application is sufficient to authorize operation of the program in its area of operation for which it was created without additional local governing body approval. Approval by the governing body or bodies creating the authority constitutes approval of a housing program for purposes of any special or general law requiring local approval of section 8 programs undertaken by city, county, or multicounty authorities; and

(32) to secure a mortgage or loan for a rental housing project by obtaining the appointment of receivers or assignments of rents and profits under sections 559.17 and 576.01, except that the limitation relating to the minimum amounts of the original principal balances of mortgages specified in sections 559.17, subdivision 2, clause (2); and 576.01, subdivision 2, does not apply.

[For text of subds 3 to 13, see M.S.1998]

History: *1999 c 243 art 5 s 38*

469.049 ESTABLISHMENT; CHARACTERISTICS.

Subdivision 1. **Saint Paul, Duluth; establishment.** The port authority of Saint Paul and the seaway port authority of Duluth are established. The seaway port authority of Duluth may also be known as the Duluth seaway port authority.

[For text of subd 2, see M.S.1998]

History: *1999 c 68 s 1*

469.101 POWERS.

[For text of subd 1, see M.S.1998]

Subd. 2. **Acquire property.** The economic development authority may acquire by lease, purchase, gift, devise, or condemnation proceedings the needed right, title, and interest in property to create economic development districts. It shall pay for the property out of money it receives under sections 469.090 to 469.108. It may hold and dispose of the property subject to the limits and conditions in sections 469.090 to 469.108. The title to property acquired by condemnation or purchase must be in fee simple, absolute. The authority may accept an interest in property acquired in another way subject to any condition of the grantor or donor. The condition must be consistent with the proper use of the property under sections 469.090 to 469.108. Property acquired, owned, leased, controlled, used, or occupied by the authority for any of the purposes of this section is for public governmental and municipal purposes and is exempt from taxation by the state or by its political subdivisions. The exemption applies only while the authority holds property for its own purpose. The exemption is subject to the provisions of section 272.02, subdivision 39. When the property is sold it becomes subject to taxation.

[For text of subds 3 to 23, see M.S.1998]

469.155 POWERS.

[For text of subds 1 to 3, see M.S.1998]

Subd. 4. **Refinancing nonprofit facilities.** It may issue revenue bonds to pay, purchase, or discharge all or any part of the outstanding indebtedness of a contracting party that is an organization described in section 501(c)(3) of the Internal Revenue Code primarily engaged in health care–related activities or in activities for mentally or physically disabled persons or that is engaged primarily in the operation of one or more nonprofit hospitals or nursing homes previously incurred in the acquisition or betterment of its existing facilities to the extent deemed necessary by the governing body of the municipality or redevelopment agency; this may include any unpaid interest on the indebtedness accrued or to accrue to the date on which the 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 469.153, subdivision 2, clause (b), (c), or (d).

[For text of subds 5 to 18, see M.S.1998]

History: *1999 c 248 s 8*

469.156 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 the project to provide funds to pay for its cost, 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 pow-

ers conferred by sections 469.152 to 469.165. No lease of any project shall be subject to the provisions of section 504B.291, unless expressly so provided in the lease.

History: *1999 c 199 art 2 s 17*

469.169 SELECTION OF ENTERPRISE ZONES.

[For text of subds 1 to 11, see M.S.1998]

Subd. 12. **Additional zone allocations.** (a) In addition to tax reductions authorized in subdivisions 7, 8, 9, 10, and 11, the commissioner shall allocate tax reductions to border city enterprise zones located on the western border of the state. The cumulative total amount of tax reductions for all years of the program under sections 469.1731 to 469.1735, is limited to:

(1) for the city of Breckenridge, $394,000;

(2) for the city of Dilworth, $118,200;

(3) for the city of East Grand Forks, $788,000;

(4) for the city of Moorhead, $591,000; and

(5) for the city of Ortonville, $78,800.

Allocations made under this subdivision may be used for tax reductions provided in section 469.1732 or 469.1734 or for reimbursements under section 469.1735, subdivision 3, but only if the municipality determines that the granting of the tax reduction or offset is necessary to enable a business to expand within a city or to attract a business to a city. Limitations on allocations under subdivision 7 do not apply to this allocation.

(b) The limit in the allocation in paragraph (a) for a municipality may be waived by the commissioner if the commissioner of revenue finds that the municipality must provide an incentive under section 469.1732 or 469.1734 that, by itself or when aggregated with all other tax reductions granted by the municipality under those provisions, exceeds the municipality's maximum allocation under paragraph (a), in order to obtain or retain a business in the city that would not occur in the municipality without the incentive. The limit may be waived only if the commissioner finds that the business for which the tax incentives are to be provided:

(1) requires a private capital investment of at least $1,000,000 within the city;

(2) employs at least 25 new or additional full–time equivalent employees within the city; and

(3) pays its employees at the location in the city wages that, on the average, will exceed the average wage paid in the county in which the municipality is located.

[For text of subd 13, see M.S.1998]

Subd. 14. **Additional border city allocations.** In addition to tax reductions authorized in subdivisions 7 to 12, the commissioner may allocate $1,500,000 for tax reductions to border city enterprise zones in cities located on the western border of the state. The commissioner shall make allocations to zones in cities on the western border on a per capita basis. Allocations made under this subdivision may be used for tax reductions as provided in section 469.171, or other offsets of taxes imposed on or remitted by businesses located in the enterprise zone, but only if the municipality determines that the granting of the tax reduction or offset is necessary in order to retain a business within or attract a business to the zone. Limitations on allocations under subdivision 7, do not apply to this allocation.

History: *1999 c 243 art 16 s 26,27*

469.1735 LIMIT ON TAX REDUCTIONS; APPLICATIONS REQUIRED.

[For text of subds 1 to 3, see M.S.1998]

Subd. 4. **Appropriation; waivers.** An amount sufficient to fund any tax reductions under a waiver made by the commissioner under section 469.169, subdivision 12, paragraph (b), is appropriated to the commissioner of revenue from the general fund. This appropriation may not be deducted from the dollar limits under this section or section 469.169 or 469.1734.

History: *1999 c 243 art 16 s 28*

469.176 LIMITATIONS.

[For text of subds 1 to 4f, see M.S.1998]

Subd. 4g. **General government use prohibited.** (a) These revenues shall not be used to circumvent existing levy limit law. No revenues derived from tax increment from any district, whether certified before or after August 1, 1979, shall be used for the acquisition, construction, renovation, operation, or maintenance of a building to be used primarily and regularly for conducting the business of a municipality, county, school district, or any other local unit of government or the state or federal government or for a commons area used as a public park, or a facility used for social, recreational, or conference purposes. This provision shall not prohibit the use of revenues derived from tax increments for the construction or renovation of a parking structure or of a privately owned facility for conference purposes.

(b) If any publicly owned facility used for social, recreational, or conference purposes and financed in whole or in part from revenues derived from a district is operated or managed by an entity other than the authority, the operating and management policies of the facility must be approved by the governing body of the authority.

(c)(1) Tax increments may not be used to pay for the cost of public improvements, equipment, or other items, if:

(i) the improvements, equipment, or other items are located outside of the area of the tax increment financing district from which the increments were collected; and

(ii) the improvements, equipment, or items that (A) primarily serve a decorative or aesthetic purpose, or (B) serve a functional purpose, but their cost is increased by more than 100 percent as a result of the selection of materials, design, or type as compared with more commonly used materials, designs, or types for similar improvements, equipment, or items.

(2) The provisions of this paragraph do not apply to expenditures related to the rehabilitation of historic structures that are:

(i) individually listed on the National Register of Historic Places; or

(ii) a contributing element to a historic district listed on the National Register of Historic Places.

[For text of subds 4h to 7, see M.S.1998]

History: *1999 c 243 art 10 s 2; 1999 c 248 s 20*

469.1763 RESTRICTIONS ON POOLING; FIVE-YEAR LIMIT.

[For text of subds 1 to 5, see M.S.1998]

Subd. 6. **Pooling permitted for deficits.** (a) This subdivision applies only to districts for which the request for certification was made before June 2, 1997.

(b) The municipality for the district may transfer available increments from another tax increment financing district located in the municipality, if the transfer is necessary to eliminate a deficit in the district to which the increments are transferred. A deficit in the district for purposes of this subdivision means the lesser of the following two amounts:

(1)(i) the amount due during the calendar year to pay preexisting obligations of the district; minus

(ii) the total increments to be collected from properties located within the district that are available for the calendar year; plus

(iii) total increments from properties located in other districts in the municipality that are available to be used to meet the district's obligations under this section, excluding this subdivision, or other provisions of law (but excluding a special tax under section 469.1791 and the grant program under Laws 1997, chapter 231, article 1, section 19); or

(2) the reduction in increments collected from properties located in the district for the calendar year as a result of the changes in class rates in Laws 1997, chapter 231, article 1; Laws 1998, chapter 389, article 2; and Laws 1999, chapter 243.

(c) A preexisting obligation means bonds issued and sold before June 2, 1997, and bonds issued to refund such bonds or to reimburse expenditures made in conjunction with a

signed contractual agreement entered into before June 2, 1997, to the extent that the bonds are secured by a pledge of increments from the tax increment financing district. For purposes of this subdivision, bonds exclude an obligation to reimburse or pay a developer or owner of property located in the district for amounts incurred or paid by the developer or owner.

(d) The municipality may require a development authority, other than a seaway port authority, to transfer available increments for any of its tax increment financing districts in the municipality to make up an insufficiency in another district in the municipality, regardless of whether the district was established by the development authority or another development authority. This authority applies notwithstanding any law to the contrary, but applies only to a development authority that:

(1) was established by the municipality; or

(2) the governing body of which is appointed, in whole or part, by the municipality or an officer of the municipality or which consists, in whole or part, of members of the governing body of the municipality.

(e) The authority under this subdivision to spend tax increments outside of the area of the district from which the tax increments were collected:

(1) may only be exercised after obtaining approval of the use of the increments, in writing, by the commissioner of revenue;

(2) is an exception to the restrictions under section 469.176, subdivision 4i, and the other provisions of this section, and the percentage restrictions under subdivision 2 must be calculated after deducting increments spent under this subdivision from the total increments for the district; and

(3) applies notwithstanding the provisions of the Tax Increment Financing Act in effect for districts for which the request for certification was made before June 30, 1982, or any other law to the contrary.

History: *1999 c 243 art 10 s 3*

469.1764 PRE–1982 DISTRICTS; POOLING RULES.

Subdivision 1. **Scope; application.** (a) This section applies to a tax increment financing district or area added to a district, if the request for certification of the district or the area added to the district was made after July 31, 1979, and before July 1, 1982.

(b) This section, section 469.1763, subdivision 6, and any special law applying to the district are the exclusive authority to spend tax increments on activities located outside of the geographic area of a tax increment financing district that is subject to this section.

(c) This section does not apply to increments from a district that is subject to the provisions of this section, if:

(1) the district was decertified before the enactment of this section and all increments spent on activities located outside of the geographic area of the district were repaid and distributed as excess increments under section 469.176, subdivision 2; or

(2) the use of increments on activities located outside of the geographic area of the district consists solely of payment of debt service on bonds under section 469.129, subdivision 2, and any bonds issued to refund bonds issued under that subdivision.

Subd. 2. **State auditor notification.** By August 1, 1999, the state auditor shall notify in writing each authority for which the auditor has records that the authority has a district subject to this section.

Subd. 3. **Ratification of past spending.** The following expenditures of increments on activities located outside of the geographic area of a district subject to this section are permitted:

(1) expenditures made before the earlier of (i) notification by the state auditor or (ii) December 31, 1999; and

(2) expenditures to pay preexisting outside district obligations.

Subd. 4. **Decertification required.** (a) The provisions of this subdivision apply to any tax increment financing district subject to this section, if increments from the district were used on activities located outside of the geographic area of the district.

(b) After December 31, 1999, any tax increments received by the authority from a district subject to this subdivision may be expended only to pay:

(1) preexisting in-district obligations;

(2) preexisting outside district obligations; and

(3) administrative expenses.

After all preexisting obligations have been paid or defeased, the district must be decertified and any remaining increments distributed as excess increments under section 469.176, subdivision 2.

Subd. 5. **Definitions.** (a) "Notification by the state auditor" means the receipt by the authority or the municipality of the final written notification from the state auditor that its expenditures of increments from the district on activities located outside of the geographic area of the district were not in compliance with state law.

(b) "Preexisting outside district obligations" means:

(1) bonds secured by increments from a district subject to this section and used to finance activities outside the geographic area of the district, if the bonds were issued and the pledge of increment was made before the earlier of (i) notification by the state auditor, or (ii) April 1, 1999;

(2) bonds issued to refund bonds qualifying under clause (1), if the refunding bonds do not increase the total amount of tax increments required to pay the refunded bonds; and

(3) binding written agreements secured by the increments from the district subject to this section and used to finance activities outside the geographic area of the district, if the agreement was entered before the earlier of (i) notification by the state auditor or (ii) May 1, 1999.

(c) "Preexisting in-district obligations" means:

(1) bonds secured by increments from a district subject to this section and not used to finance activities outside of the geographic area of the district, if the bonds were issued and the pledge of increments was made before April 1, 1999;

(2) bonds issued to refund bonds qualifying under clause (1), if the refunding bonds do not increase the total amount of tax increments required to pay the refunded bonds; and

(3) binding written agreements secured by increments from a district subject to this section and not used to finance activities outside of the geographic area of the district, if the agreements were entered into and the pledge of increments was made before June 30, 1999.

History: *1999 c 243 art 10 s 4*

469.1771 VIOLATIONS.

Subdivision 1. **Enforcement.** (a) The owner of taxable property located in the city, town, school district, or county in which the tax increment financing district is located may bring suit for equitable relief or for damages, as provided in subdivisions 3 and 4, arising out of a failure of a municipality or authority to comply with the provisions of sections 469.174 to 469.179, or related provisions of this chapter. The prevailing party in a suit filed under the preceding sentence is entitled to costs, including reasonable attorney fees.

(b) The state auditor may examine and audit political subdivisions' use of tax increment financing. Without previous notice, the state auditor may examine or audit accounts and records on a random basis as the auditor deems to be in the public interest. If the state auditor finds evidence that an authority or municipality has violated a provision of the law for which a remedy is provided under this section, the state auditor shall forward the relevant information to the county attorney. The county attorney may bring an action to enforce the provisions of sections 469.174 to 469.179 or related provisions of this chapter, for matters referred by the state auditor or on behalf of the county. If the county attorney determines not to bring an action or if the county attorney has not brought an action within 12 months after receipt of the initial notification by the state auditor of the violation, the county attorney shall notify the state auditor in writing.

(c) If the state auditor finds an authority is not in compliance with sections 469.174 to 469.179 or related provisions of law, the auditor shall notify the governing body of the mu-

nicipality that approved the tax increment financing district of its findings. The governing body of the municipality must respond in writing to the state auditor within 60 days after receiving the notification. Its written response must state whether the municipality accepts, in whole or part, the auditor's findings. If the municipality does not accept the findings, the statement must indicate the basis for its disagreement. The state auditor shall annually summarize the responses it receives under this section and send the summary and copies of the responses to the chairs of the committees of the legislature with jurisdiction over tax increment financing.

(d) The state auditor shall notify the attorney general in writing and provide supporting materials for a violation found by the auditor, if the:

(1) auditor receives notification from the county attorney under paragraph (b) or receives no notification for a 12–month period after initially notifying the county attorney and the state auditor confirms with the county attorney or the municipality that no action has been brought regarding the matter; and

(2) municipality or development authority have not eliminated or resolved the violation to the satisfaction of the state auditor.

The auditor shall provide the municipality and development authority a copy of the notification sent to the attorney general.

[For text of subds 2 and 2a, see M.S.1998]

Subd. 2b. **Action to suspend TIF authority.** (a) Upon receipt of a notification from the state auditor under subdivision 1, paragraph (d), the attorney general shall review the materials submitted by the auditor and any materials submitted by the municipality and development authority. If the attorney general finds that the municipality or development authority violated a provision of the law enumerated in subdivision 1 and that the violation was substantial, the attorney general shall file a petition in the tax court to suspend the authority of the municipality and development authority to exercise tax increment financing powers.

(b) Before filing a petition under this subdivision, the attorney shall attempt to resolve the matter using appropriate alternative dispute resolution procedures, such as those under sections 572.31 to 572.40.

(c) If the tax court finds that the municipality or development authority failed to comply with the law and that the noncompliance was substantial, the court shall suspend the authority of the municipality or development to exercise tax increment financing powers. The court shall set the period of the suspension for a period not to exceed five years. In determining the length of the suspension, the court may consider:

(1) the substantiality of the violation or violations;

(2) the dollar amount of the violation or violations;

(3) the sophistication of the municipality or development authority;

(4) the extent to which the municipality or development authority violated a clear and unambiguous requirement of the law;

(5) whether the municipality or development authority continued to violate the law after receiving notification from the state auditor that it was not in compliance with the law;

(6) the extent to which the municipality or development authority engaged in a pattern of violations; and

(7) any other factors the court determines are relevant to whether the municipality or development authority's authority to exercise tax increment financing powers should be suspended.

(d) For purposes of this subdivision, the exercise of tax increment financing powers means:

(1) the authority to request certification of a new tax increment financing district or the addition of area to an existing tax increment financing district;

(2) the authority to issue bonds under section 469.178;

(3) the authority to amend a tax increment financing plan to authorize new activities or expenditures.

[For text of subds 3 to 6, see M.S.1998]

History: *1999 c 243 art 10 s 5,6*

469.1791 TAX INCREMENT FINANCING SPECIAL TAXING DISTRICT.

[For text of subds 1 and 2, see M.S.1998]

Subd. 3. **Preconditions to establish district.** (a) A city may establish a special taxing district within a tax increment financing district under this section only if the conditions under paragraphs (b) and (c) are met or if the city elects to exercise the authority under paragraph (d).

(b) The city has determined that:

(1) total tax increments from the district, including unspent increments from previous years and increments transferred under paragraph (c), will be insufficient to pay the amounts due in a year on preexisting obligations; and

(2) this insufficiency of increments resulted from the reduction in property tax class rates enacted in the 1997 and 1998 legislative sessions.

(c) The city has agreed to transfer any available increments from other tax increment financing districts in the city to pay the preexisting obligations of the district under section 469.1763, subdivision 6. This requirement does not apply to any available increments of a qualified housing district, as defined in section 273.1399, subdivision 1.

(d) If a tax increment financing district does not qualify under paragraphs (b) and (c), the governing body may elect to establish a special taxing district under this section. If the city elects to exercise this authority, increments from the tax increment financing district and the proceeds of the tax imposed under this section may only be used to pay preexisting obligations and reasonable administrative expenses of the authority for the tax increment financing district. The tax increment financing district must be decertified when all preexisting obligations have been paid.

[For text of subds 4 to 11, see M.S.1998]

History: *1999 c 243 art 10 s 7*

469.1813 ABATEMENT AUTHORITY.

Subdivision 1. **Authority.** The governing body of a political subdivision may grant an abatement of the taxes imposed by the political subdivision on a parcel of property, or defer the payments of the taxes and abate the interest and penalty that otherwise would apply, if:

(a) it expects the benefits to the political subdivision of the proposed abatement agreement to at least equal the costs to the political subdivision of the proposed agreement; and

(b) it finds that doing so is in the public interest because it will:

(1) increase or preserve tax base;

(2) provide employment opportunities in the political subdivision;

(3) provide or help acquire or construct public facilities;

(4) help redevelop or renew blighted areas;

(5) help provide access to services for residents of the political subdivision; or

(6) finance or provide public infrastructure.

Subd. 1a. **Use of term.** As used in this section and sections 469.1814 and 469.1815, "abatement" includes a deferral of taxes with abatement of interest and penalties unless the context indicates otherwise.

Subd. 2. **Abatement resolution.** (a) The governing body of a political subdivision may grant an abatement only by adopting an abatement resolution, specifying the terms of the abatement. In the case of a town, the board of supervisors may approve the abatement resolu-

tion. The resolution must also include a specific statement as to the nature and extent of the public benefits which the governing body expects to result from the agreement. The resolution may provide that the political subdivision will retain or transfer to another political subdivision the abatement to pay for all or part of the cost of acquisition or improvement of public infrastructure, whether or not located on or adjacent to the parcel for which the tax is abated. The abatement may reduce all or part of the property tax amount for the political subdivision on the parcel. A political subdivision's maximum annual amount for a parcel equals its total local tax rate multiplied by the total net tax capacity of the parcel.

(b) The political subdivision may limit the abatement:

(1) to a specific dollar amount per year or in total;

(2) to the increase in property taxes resulting from improvement of the property;

(3) to the increases in property taxes resulting from increases in the market value or tax capacity of the property;

(4) in any other manner the governing body of the subdivision determines is appropriate; or

(5) to the interest and penalty that would otherwise be due on taxes that are deferred.

(c) The political subdivision may not abate tax attributable to the areawide tax under chapter 276A or 473F, except as provided in this subdivision.

Subd. 3. **School district abatements.** An abatement granted under this section is not an abatement for purposes of state aid or local levy under sections 127A.40 to 127A.51.

[For text of subds 4 and 5, see M.S.1998]

Subd. 6. **Duration limit.** A political subdivision may grant an abatement for a period no longer than ten years. The subdivision may specify in the abatement resolution a shorter duration. If the resolution does not specify a period of time, the abatement is for eight years. If an abatement has been granted to a parcel of property and the period of the abatement has expired, the political subdivision that granted the abatement may not grant another abatement for eight years after the expiration of the first abatement. This prohibition does not apply to improvements added after and not subject to the first abatement.

Subd. 6a. **Deferment payment schedule.** When the tax is deferred and the interest and penalty abated, the political subdivision must set a schedule for repayments. The deferred payment must be included with the current taxes due and payable in the years the deferred payments are due and payable and must be levied accordingly.

[For text of subds 7 and 8, see M.S.1998]

Subd. 9. **Consent of property owner not required.** A political subdivision may abate the taxes on a parcel under sections 469.1812 to 469.1815 without obtaining the consent of the property owner.

History: *1999 c 243 art 10 s 8–14; 1999 c 248 s 19*

469.1815 ADMINISTRATIVE.

[For text of subd 1, see M.S.1998]

Subd. 2. **Property taxes; abatement payment.** The total property taxes shall be levied on the property and shall be due and payable to the county at the times provided under section 279.01. The political subdivision will pay the abatement to the property owner, lessee, or a representative of the bondholders or will retain the abatement to pay public infrastructure costs, as provided by the abatement resolution.

History: *1999 c 243 art 10 s 15; 1999 c 248 s 19*

469.207 ANNUAL AUDIT AND REPORT.

Subdivision 1. [Repealed, 1999 c 99 s 24]

[For text of subd 2, see M.S.1998]

469.305 ENTERPRISE ZONE CREDITS.

Subdivision 1. **Incentive grants.** (a) An incentive grant is available to businesses located in an enterprise zone that meet the conditions of this section. Each city designated as an enterprise zone is allocated $3,000,000 to be used to provide grants under this section for the duration of the program. Each city of the second class designated as an economically depressed area by the United States Department of Commerce is allocated $300,000 to be used to provide grants under this section for the duration of the program. For fiscal year 1998 and subsequent years, the proration in section 469.31 shall continue to apply until the amount designated in this subdivision is expended. For the allocation in fiscal year 1998 and subsequent years, the commissioner may use up to 15 percent of the allocation to the city of Minneapolis for a grant to the city of Minneapolis and up to 15 percent of the allocation to the city of St. Paul for a grant to the city of St. Paul, for administration of the program or employment services provided to the employers and employees involved in the incentive grant program under this section. The commissioner may authorize the use of grant funds for employer–focused workforce development initiatives designed to promote the hiring and retention of city residents.

(b) The incentive grant is in an amount equal to 20 percent of the wages paid to an employee, not to exceed $5,000 per employee per calendar year. The incentive grant is available to an employer for a zone resident employed in the zone at full–time wage levels of not less than 110 percent of the federal poverty level for a family of four, as determined by the United States Department of Agriculture. The incentive grant is not available to workers employed in construction or employees of financial institutions, gambling enterprises, public utilities, sports, fitness, and health facilities, or racetracks. The employee must be employed at that rate at the time the business applies for a grant, and must have been employed for at least one year at the business. A grant may be provided only for new jobs; for purposes of this section, a "new job" is a job that did not exist in Minnesota before May 6, 1994. The incentive grant authority is available for the five calendar years after the application has been approved to the extent the allocation to the city remains available to fund the grants, and if the city certifies to the commissioner on an annual basis that the business is in compliance with the plan to recruit, hire, train, and retain zone residents. The employer may designate an organization that provides employment services to receive all or a portion of the employer's incentive grant.

[For text of subd 3, see M.S.1998]

History: *1999 c 248 s 9*

NOTE: This section is repealed by Laws 1999, chapter 223, article 2, section 80, paragraph (b), effective July 1, 2000. Laws 1999, chapter 223, article 2, section 81.