CHAPTER 469

ECONOMIC DEVELOPMENT

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469.015 LETTING OF CONTRACTS; PERFORMANCE BONDS.

Subdivision 1. **Bids; notice.** All construction work, and work of demolition or clearing, and every purchase of equipment, supplies, or materials, necessary in carrying out the purposes of sections 469.001 to 469.047, that involve expenditure of $35,000 for an authority whose area of operation is less than 2,500 population and $50,000 for all other authorities or more shall be awarded by contract. Before receiving bids the authority shall publish, once a week for two consecutive weeks in an official newspaper of general circulation in the community a notice that bids will be received for that construction work, or that purchase of equipment, supplies, or materials. The notice shall state the nature of the work and the terms and conditions upon which the contract is to be let, naming a time and place where bids will be received, opened and read publicly, which time shall be not less than seven days after the date of the last publication. After the bids have been received, opened and read publicly and recorded, the authority shall award the contract to the lowest responsible bidder, provided that the authority reserves the right to reject any or all bids. Each contract shall be executed in writing, and the person to whom the contract is awarded shall give sufficient bond to the authority for its faithful performance. If no satisfactory bid is received, the authority may readvertise. The authority may establish reasonable qualifications to determine the fitness and responsibility of bidders and to require bidders to meet the qualifications before bids are accepted.

Subd. 2. **Exception; emergency.** If the authority by a vote of four-fifths of its members shall declare that an emergency exists requiring the immediate purchase of any equipment or material or supplies at a cost in excess of $50,000 but not exceeding $75,000, or making of emergency repairs, it shall not be necessary to advertise for bids, but the material, equipment, or supplies may be purchased in the open market at the lowest price obtainable, or the emergency repairs may be contracted for or performed without securing formal competitive bids. An emergency, for purposes of this subdivision, shall be understood to be unforeseen circumstances or conditions which result in the placing in jeopardy of human life or property.

Subd. 3. **Performance and payment bonds.** Performance and payment bonds shall be required from contractors for any works of construction as provided in and subject to all the provisions of sections 574.26 to 574.31 except for contracts entered into by an authority for an expenditure of less than $35,000 for an authority whose area of operation is less than 2,500 population and $50,000 for all others.

[For text of subd 4, see M.S.2000]

Subd. 5. **Security in lieu of bond.** The authority may accept a certified check or cashier's check in the same amount as required for a bond in lieu of a performance bond for contracts entered into by an authority for an expenditure of less than $50,000. The check must be held by the authority for 90 days after the contract has been

completed. If no suit is brought within the 90 days, the authority must return the amount of the check to the person making it. If a suit is brought within the 90-day period, the authority must disburse the amount of the check pursuant to the order of the court.

History: *2001 c 140 s 1-4*

469.040 TAX STATUS.

[For text of subds 1 to 4, see M.S.2000]

Subd. 5. **Designated housing corporation.** (a) To the extent not exempt from taxation under section 272.01, subdivision 1, property located within the exterior boundaries of an Indian reservation in the state that is owned by the tribe's designated housing entity as defined in United States Code, title 25, section 4103(21), and that is a housing project or a housing development project, as defined in section 469.002, subdivisions 13 and 15, is exempt from all real and personal property taxes of the city, the county, the state, or any political subdivision thereof.

(b) Property exempt from taxation under paragraph (a) is subject to subdivision 3. A copy of those portions of the annual reports submitted on behalf of the housing entity to the Secretary of the United States Department of Housing and Urban Development for the project that contain information sufficient to determine the amount due under subdivision 3 satisfies the reporting requirements of subdivision 3 for the project.

History: *1Sp2001 c 5 art 3 s 67*

469.113 CONFLICT OF INTEREST.

No commissioner or employee of any local agency shall acquire any interest, direct or indirect, in any project or in any property included or planned to be included in any project, nor have any interest, direct or indirect, in any contract or proposed contract for materials or service to be furnished or used in connection with any project. This section shall not apply to the deposit of any funds of an agency in any bank in which a member of an agency shall have an interest, if the funds are deposited and protected in accordance with chapter 118A.

History: *2001 c 7 s 90*

469.126 AUTHORITY GRANTED.

[For text of subd 1, see M.S.2000]

Subd. 2. **Powers.** Within these districts the city may:

(1) adopt a development program consistent with which the city may acquire, construct, reconstruct, improve, alter, extend, operate, maintain, or promote developments aimed at improving the physical facilities, quality of life, and quality of transportation;

(2) acquire land or easements through negotiation or through powers of eminent domain;

(3) adopt ordinances regulating traffic in pedestrian skyway systems, public parking structures, and other facilities constructed within the development district. Traffic regulations may include direction and speed of traffic, policing of pedestrianways, hours that pedestrianways are open to the public, kinds of service activities that will be allowed in arcades, parks, and plazas, and rates to be charged in the parking structures;

(4) adopt ordinances regulating access to pedestrian skyway systems and the conditions under which such access is allowed;

(5) require private developers to construct buildings so as to accommodate and support pedestrian systems which are part of the program for the development district. When the city requires the developer to construct columns, beams, or girders with greater strength than required for normal building purposes, the city shall reimburse the developer for the added expense from development district funds;

(6) install special lighting systems, special street signs and street furniture, special landscaping of streets and public property, and special snow removal systems;

(7) acquire property for the district;

(8) lease or sell air rights over public buildings and spend public funds for constructing the foundations and columns in the public buildings strong enough to support the buildings to be constructed on air rights;

(9) lease all or portions of basement, ground, and second floors of the public buildings constructed in the district; and

(10) negotiate the sale or lease of property for private development if the development is consistent with the development program for the district.

History: *2001 c 7 s 75*

469.164 POWERS ADDITIONAL TO APPLICATION OF EXISTING LAWS AND RULES.

[For text of subd 1, see M.S.2000]

Subd. 2. **Telephone company projects.** 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 of the department of commerce, that apply to property owned by a telephone company including 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. In the issuance of any bonds pursuant to sections 469.152 to 469.165, these sections shall control, notwithstanding the provisions of chapter 452, or any other general or special law relating to municipal or town telephone companies.

History: *1Sp2001 c 4 art 6 s 77*

469.169 SELECTION OF ENTERPRISE ZONES.

[For text of subds 1 to 14, see M.S.2000]

Subd. 15. **Additional border city allocations.** In addition to tax reductions authorized in subdivisions 7 to 14, the commissioner shall 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 for 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. Any portion of the allocation provided in this section may alternatively be used for tax reductions under section 469.1732 or 469.1734. If, at the end of the biennium, the total amount allowable under this section has not been expended, a city that has expended its allocation may submit a request for an additional allocation for qualifying reductions from the amount remaining. If more than one city exceeds their allocation and the additional qualifying amounts exceed the balance remaining, the commissioner shall allocate the amount remaining to each qualifying city in proportion to its request for additional allocation. Limitations on allocations under subdivision 7 do not apply to this allocation.

History: *1Sp2001 c 5 art 15 s 2*

469.1732 TAX INCENTIVES WITHIN DEVELOPMENT ZONES.

Subdivision 1. **Authority.** A business that conducts business activity within a border city development zone designated under section 469.1731 may qualify for the property tax exemption under section 272.0212 and the sales tax exemption under section 469.1734, subdivision 6.

Subd. 2. [Repealed, 1Sp2001 c 5 art 9 s 30]

[For text of subd 3, see M.S.2000]

History: *1Sp2001 c 5 art 9 s 28*

469.1734 TAX INCENTIVES OUTSIDE ZONES.

[For text of subds 1 to 3, see M.S.2000]

Subd. 4. [Repealed, 1Sp2001 c 5 art 9 s 30]

[For text of subd 5, see M.S.2000]

Subd. 6. **Sales tax exemption; equipment; construction materials.** (a) The gross receipts from the sale of machinery and equipment and repair parts are exempt from taxation under chapter 297A, if the machinery and equipment:

(1) are used in connection with a trade or business;

(2) are placed in service in a city that is authorized to designate a zone under section 469.1731, regardless of whether the machinery and equipment are used in a zone; and

(3) have a useful life of 12 months or more.

(b) The gross receipts from the sale of construction materials are exempt, if they are used to construct a facility for use in a trade or business located in a city that is authorized to designate a zone under section 469.1731, regardless of whether the facility is located in a zone. The exemptions under this paragraph apply regardless of whether the purchase is made by the owner, the user, or a contractor.

(c) A purchaser may claim an exemption under this subdivision for tax on the purchases up to, but not exceeding:

(1) the amount of the tax credit certificates received from the city, less

(2) any tax credit certificates used under the provisions of subdivisions 4 and 5, and section 469.1732, subdivision 2.

(d) The tax on sales of items exempted under this subdivision shall be imposed and collected as if the applicable rate under section 297A.62 applied. Upon application by the purchaser, on forms prescribed by the commissioner, a refund equal to the tax paid shall be paid to the purchaser. The application must include sufficient information to permit the commissioner to verify the sales tax paid and the eligibility of the claimant to receive the credit. No more than two applications for refunds may be filed under this subdivision in a calendar year. The provisions of section 289A.40 apply to the refunds payable under this subdivision. There is annually appropriated to the commissioner of revenue the amount required to make the refunds, which must be deducted from the amount of the city's allocation under section 469.169, subdivision 12, that remains available and its limitation under section 469.1735. The amount to be refunded shall bear interest at the rate in section 270.76 from the date the refund claim is filed with the commissioner.

[For text of subd 7, see M.S.2000]

History: *2000 c 418 art 1 s 44*

469.174 DEFINITIONS.

[For text of subds 1 and 2, see M.S.2000]

Subd. 3. **Bonds.** "Bonds" means any bonds, including refunding bonds, notes, interim certificates, debentures, interfund loans or advances, or other obligations issued by an authority under section 469.178 or which were issued in aid of a project under any other law, except revenue bonds issued pursuant to sections 469.152 to 469.165, prior to August 1, 1979.

[For text of subds 4 to 9, see M.S.2000]

Subd. 10. **Redevelopment district.** (a) "Redevelopment district" means a type of tax increment financing district consisting of a project, or portions of a project, within which the authority finds by resolution that one or more of the following conditions, reasonably distributed throughout the district, exists:

(1) parcels consisting of 70 percent of the area of the district are occupied by buildings, streets, utilities, paved or gravel parking lots, or other similar structures and more than 50 percent of the buildings, not including outbuildings, are structurally substandard to a degree requiring substantial renovation or clearance; or

(2) the property consists of vacant, unused, underused, inappropriately used, or infrequently used railyards, rail storage facilities, or excessive or vacated railroad rights-of-way; or

(3) tank facilities, or property whose immediately previous use was for tank facilities, as defined in section 115C.02, subdivision 15, if the tank facilities:

(i) have or had a capacity of more than 1,000,000 gallons;

(ii) are located adjacent to rail facilities; and

(iii) have been removed or are unused, underused, inappropriately used, or infrequently used.

(b) For purposes of this subdivision, "structurally substandard" shall mean containing defects in structural elements or a combination of deficiencies in essential utilities and facilities, light and ventilation, fire protection including adequate egress, layout and condition of interior partitions, or similar factors, which defects or deficiencies are of sufficient total significance to justify substantial renovation or clearance.

(c) A building is not structurally substandard if it is in compliance with the building code applicable to new buildings or could be modified to satisfy the building code at a cost of less than 15 percent of the cost of constructing a new structure of the same square footage and type on the site. The municipality may find that a building is not disqualified as structurally substandard under the preceding sentence on the basis of reasonably available evidence, such as the size, type, and age of the building, the average cost of plumbing, electrical, or structural repairs, or other similar reliable evidence. The municipality may not make such a determination without an interior inspection of the property, but need not have an independent, expert appraisal prepared of the cost of repair and rehabilitation of the building. An interior inspection of the property is not required, if the municipality finds that (1) the municipality or authority is unable to gain access to the property after using its best efforts to obtain permission from the party that owns or controls the property; and (2) the evidence otherwise supports a reasonable conclusion that the building is structurally substandard. Items of evidence that support such a conclusion include recent fire or police inspections, on-site property tax appraisals or housing inspections, exterior evidence of deterioration, or other similar reliable evidence. Written documentation of the findings and reasons why an interior inspection was not conducted must be made and retained under section 469.175, subdivision 3, clause (1).

(d) A parcel is deemed to be occupied by a structurally substandard building for purposes of the finding under paragraph (a) if all of the following conditions are met:

(1) the parcel was occupied by a substandard building within three years of the filing of the request for certification of the parcel as part of the district with the county auditor;

(2) the substandard building was demolished or removed by the authority or the demolition or removal was financed by the authority or was done by a developer under a development agreement with the authority;

(3) the authority found by resolution before the demolition or removal that the parcel was occupied by a structurally substandard building and that after demolition and clearance the authority intended to include the parcel within a district; and

(4) upon filing the request for certification of the tax capacity of the parcel as part of a district, the authority notifies the county auditor that the original tax capacity of

the parcel must be adjusted as provided by section 469.177, subdivision 1, paragraph (h).

(e) For purposes of this subdivision, a parcel is not occupied by buildings, streets, utilities, paved or gravel parking lots, or other similar structures unless 15 percent of the area of the parcel contains buildings, streets, utilities, paved or gravel parking lots, or other similar structures.

(f) For districts consisting of two or more noncontiguous areas, each area must qualify as a redevelopment district under paragraph (a) to be included in the district, and the entire area of the district must satisfy paragraph (a).

Subd. 10a. **Renewal and renovation district.** (a) "Renewal and renovation district" means a type of tax increment financing district consisting of a project, or portions of a project, within which the authority finds by resolution that:

(1)(i) parcels consisting of 70 percent of the area of the district are occupied by buildings, streets, utilities, paved or gravel parking lots, or other similar structures; (ii) 20 percent of the buildings are structurally substandard; and (iii) 30 percent of the other buildings require substantial renovation or clearance to remove existing conditions such as: inadequate street layout, incompatible uses or land use relationships, overcrowding of buildings on the land, excessive dwelling unit density, obsolete buildings not suitable for improvement or conversion, or other identified hazards to the health, safety, and general well-being of the community; and

(2) the conditions described in clause (1) are reasonably distributed throughout the geographic area of the district.

(b) For purposes of determining whether a building is structurally substandard, whether parcels are occupied by buildings, streets, utilities, paved or gravel parking lots, or other similar structures, or whether noncontiguous areas qualify, the provisions of subdivision 10, paragraphs (c), (e), and (f) apply.

[For text of subd 11, see M.S.2000]

Subd. 12. **Economic development district.** "Economic development district" means a type of tax increment financing district which consists of any project, or portions of a project, which the authority finds to be in the public interest because:

(1) it will discourage commerce, industry, or manufacturing from moving their operations to another state or municipality; or

(2) it will result in increased employment in the state; or

(3) it will result in preservation and enhancement of the tax base of the state.

[For text of subds 14 to 28, see M.S.2000]

History: *1Sp2001 c 5 art 15 s 3-6*

469.175 ESTABLISHING, MODIFYING TAX INCREMENT FINANCING PLAN, ANNUAL ACCOUNTS.

Subdivision 1. **Tax increment financing plan.** A tax increment financing plan shall contain:

(1) a statement of objectives of an authority for the improvement of a project;

(2) a statement as to the development program for the project, including the property within the project, if any, that the authority intends to acquire;

(3) a list of any development activities that the plan proposes to take place within the project, for which contracts have been entered into at the time of the preparation of the plan, including the names of the parties to the contract, the activity governed by the contract, the cost stated in the contract, and the expected date of completion of that activity;

(4) identification or description of the type of any other specific development reasonably expected to take place within the project, and the date when the development is likely to occur;

(5) estimates of the following:

(i) cost of the project, including administration expenses;

(ii) amount of bonded indebtedness to be incurred;

(iii) sources of revenue to finance or otherwise pay public costs;

(iv) the most recent net tax capacity of taxable real property within the tax increment financing district and within any subdistrict;

(v) the estimated captured net tax capacity of the tax increment financing district at completion; and

(vi) the duration of the tax increment financing district's and any subdistrict's existence;

(6) statements of the authority's alternate estimates of the impact of tax increment financing on the net tax capacities of all taxing jurisdictions in which the tax increment financing district is located in whole or in part. For purposes of one statement, the authority shall assume that the estimated captured net tax capacity would be available to the taxing jurisdictions without creation of the district, and for purposes of the second statement, the authority shall assume that none of the estimated captured net tax capacity would be available to the taxing jurisdictions without creation of the district or subdistrict;

(7) identification and description of studies and analyses used to make the determination set forth in subdivision 3, clause (2); and

(8) identification of all parcels to be included in the district or any subdistrict.

[For text of subds 1a to 4, see M.S.2000]

Subd. 4a. **Filing plan with state.** (a) The authority must file a copy of the tax increment financing plan and amendments to the plan with the commissioner of revenue. The authority must also file a copy of the development plan or the project plan for the project area with the commissioner of revenue. The commissioner of revenue shall provide a copy of a plan to the state auditor upon request.

(b) Filing under this subdivision must be made within 60 days after the latest of:

(1) the filing of the request for certification of the district;

(2) approval of the plan by the municipality; or

(3) adoption of the plan by the authority.

[For text of subds 5 and 6, see M.S.2000]

Subd. 6b. **Duration of disclosure and reporting requirements.** The disclosure and reporting requirements imposed by subdivisions 5 and 6 apply with respect to a tax increment financing district beginning with the annual disclosure and reports for the year in which the original net tax capacity of the district was certified and ending with the annual disclosure and reports for the year in which both of the following events have occurred:

(1) decertification of the district; and

(2) expenditure or return to the county auditor of all remaining revenues derived from tax increments paid by properties in the district.

[For text of subds 7 and 8, see M.S.2000]

History: *1Sp2001 c 5 art 15 s 7-9*

469.176 LIMITATIONS.

[For text of subds 1 and 1a, see M.S.2000]

Subd. 1b. **Duration limits; terms.** (a) No tax increment shall in any event be paid to the authority

(1) after 15 years after receipt by the authority of the first increment for a renewal and renovation district,

(2) after 20 years after receipt by the authority of the first increment for a soils condition district,

(3) after eight years after receipt by the authority of the first increment for an economic development district,

(4) for a housing district or a redevelopment district, after 25 years from the date of receipt by the authority of the first increment.

(b) For purposes of determining a duration limit under this subdivision or subdivision 1e that is based on the receipt of an increment, any increments from taxes payable in the year in which the district terminates shall be paid to the authority. This paragraph does not affect a duration limit calculated from the date of approval of the tax increment financing plan or based on the recovery of costs or to a duration limit under subdivision 1c. This paragraph does not supersede the restrictions on payment of delinquent taxes in subdivision 1f.

(c) An action by the authority to waive or decline to accept an increment has no effect for purposes of computing a duration limit based on the receipt of increment under this subdivision or any other provision of law. The authority is deemed to have received an increment for any year in which it waived or declined to accept an increment, regardless of whether the increment was paid to the authority.

(d) Receipt by a hazardous substance subdistrict of an increment as a result of a reduction in original net tax capacity under section 469.174, subdivision 7, paragraph (b), does not constitute receipt of increment by the overlying district for the purpose of calculating the duration limit under this section.

[For text of subds 1c and 1d, see M.S.2000]

Subd. 1e. **Duration limits; hazardous substance subdistricts.** If a parcel of a district is part of a designated hazardous substance site or a hazardous substance subdistrict, tax increment may be paid to the authority from the parcel for longer than the period otherwise provided by subdivisions 1 to 1f for the overlying district. The extended period for collection of tax increment begins on the date of receipt of the first tax increment from the parcel that is more than any tax increment received from the parcel before the date of the certification under section 469.174, subdivision 7, paragraph (b), and received after the date of certification to the county auditor described in section 469.174, subdivision 7, paragraph (b). The extended period for collection of tax increment is the lesser of: (1) 25 years from the date of commencement of the extended period; or (2) the period necessary to recover the costs of removal actions or remedial actions specified in a development response action plan.

[For text of subds 1f and 1g, see M.S.2000]

Subd. 1h. **Approval for early decertification.** The authority must obtain approval from the commissioner of revenue to decertify a preexisting district, as defined in section 469.1792, before the required decertification date under section 469.177, subdivision 12, if there are outstanding preexisting obligations, as defined in section 469.1792, secured by increments from another preexisting district in the municipality. The commissioner may approve early decertification only if the commissioner determines that early decertification is unlikely to increase the municipality's entitlement to a grant under section 469.1799.

[For text of subd 2, see M.S.2000]

Subd. 3. **Limitation on administrative expenses.** (a) For districts for which certification was requested before August 1, 1979, or after June 30, 1982 and before August 1, 2001, no tax increment shall be used to pay any administrative expenses for a project which exceed ten percent of the total tax increment expenditures authorized by the tax increment financing plan or the total tax increment expenditures for the project, whichever is less.

(b) For districts for which certification was requested after July 31, 1979, and before July 1, 1982, no tax increment shall be used to pay administrative expenses, as

defined in Minnesota Statutes 1980, section 273.73, for a district which exceeds five percent of the total tax increment expenditures authorized by the tax increment financing plan or the total tax increment expenditures for the district, whichever is less.

(c) For districts for which certification was requested after July 31, 2001, no tax increment may be used to pay any administrative expenses for a project which exceed ten percent of total tax increment expenditures authorized by the tax increment financing plan or the total tax increments from the district, whichever is less.

[For text of subds 4 to 4f, see M.S.2000]

Subd. 4g. **General government use prohibited.** (a) Tax increments may not be used to circumvent existing levy limit law.

(b) No tax increment from any district may 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. This provision does not prohibit the use of revenues derived from tax increments for the construction or renovation of a parking structure.

(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 4k, see M.S.2000]

Subd. 4l. **Prohibited facilities.** (a) No tax increment from any district may be used for:

(1) a commons area used as a public park; or

(2) a facility used for social, recreational, or conference purposes.

(b) This subdivision does not apply to a privately owned facility for conference purposes or a parking structure.

History: *1Sp2001 c 5 art 15 s 10-15*

469.1763 RESTRICTIONS ON POOLING; FIVE-YEAR LIMIT.

[For text of subds 1 to 5, see M.S.2000]

Subd. 6. **Pooling permitted for deficits.** (a) This subdivision applies only to districts for which the request for certification was made before August 1, 2001, and without regard to whether the request for certification was made prior to August 1, 1979.

(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 Laws 2001, First Special Session chapter 5); 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, and Laws 2001, First Special Session chapter 5, or the elimination of the general education tax levy under Laws 2001, First Special Session chapter 5.

(c) A preexisting obligation means:

(1) bonds issued and sold before August 1, 2001, or bonds issued pursuant to a binding contract requiring the issuance of bonds entered into before July 1, 2001, and bonds issued to refund such bonds or to reimburse expenditures made in conjunction with a signed contractual agreement entered into before August 1, 2001, to the extent that the bonds are secured by a pledge of increments from the tax increment financing district; and

(2) binding contracts entered into before August 1, 2001, to the extent that the contracts require payments secured by a pledge of increments from the tax increment financing district.

(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. The municipality may use this authority only after it has first used all available increments of the receiving development authority to eliminate the insufficiency and exercised any permitted action under section 469.1792, subdivision 3, for preexisting districts of the receiving development authority to eliminate the insufficiency.

(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.

(f) If a preexisting obligation requires the development authority to pay an amount that is limited to the increment from the district or a specific development within the district and if the obligation requires paying a higher amount to the extent that increments are available, the municipality may determine that the amount due under the preexisting obligation equals the higher amount and may authorize the transfer of increments under this subdivision to pay up to the higher amount. The authority to transfer increments under this paragraph may only be used to the extent that the

payment of all other preexisting obligations in the municipality due during the calendar year have been satisfied.

History: *1Sp2001 c 5 art 15 s 16*

469.177 COMPUTATION OF TAX INCREMENT.

Subdivision 1. **Original net tax capacity.** (a) Upon or after adoption of a tax increment financing plan, the auditor of any county in which the district is situated shall, upon request of the authority, certify the original net tax capacity of the tax increment financing district and that portion of the district overlying any subdistrict as described in the tax increment financing plan and shall certify in each year thereafter the amount by which the original net tax capacity has increased or decreased as a result of a change in tax exempt status of property within the district and any subdistrict, reduction or enlargement of the district or changes pursuant to subdivision 4.

(b) For districts approved under section 469.175, subdivision 3, or parcels added to existing districts after May 1, 1988, if the classification under section 273.13 of property located in a district changes to a classification that has a different assessment ratio, the original net tax capacity of that property must be redetermined at the time when its use is changed as if the property had originally been classified in the same class in which it is classified after its use is changed.

(c) The amount to be added to the original net tax capacity of the district as a result of previously tax exempt real property within the district becoming taxable equals the net tax capacity of the real property as most recently assessed pursuant to section 273.18 or, if that assessment was made more than one year prior to the date of title transfer rendering the property taxable, the net tax capacity assessed by the assessor at the time of the transfer. If improvements are made to tax exempt property after certification of the district and before the parcel becomes taxable, the assessor shall, at the request of the authority, separately assess the estimated market value of the improvements. If the property becomes taxable, the county auditor shall add to original net tax capacity, the net tax capacity of the parcel, excluding the separately assessed improvements. If substantial taxable improvements were made to a parcel after certification of the district and if the property later becomes tax exempt, in whole or part, as a result of the authority acquiring the property through foreclosure or exercise of remedies under a lease or other revenue agreement or as a result of tax forfeiture, the amount to be added to the original net tax capacity of the district as a result of the property again becoming taxable is the amount of the parcel's value that was included in original net tax capacity when the parcel was first certified. The amount to be added to the original net tax capacity of the district as a result of enlargements equals the net tax capacity of the added real property as most recently certified by the commissioner of revenue as of the date of modification of the tax increment financing plan pursuant to section 469.175, subdivision 4.

(d) For districts approved under section 469.175, subdivision 3, or parcels added to existing districts after May 1, 1988, if the net tax capacity of a property increases because the property no longer qualifies under the Minnesota Agricultural Property Tax Law, section 273.111; the Minnesota Open Space Property Tax Law, section 273.112; or the Metropolitan Agricultural Preserves Act, chapter 473H, or because platted, unimproved property is improved or three years pass after approval of the plat under section 273.11, subdivision 1, the increase in net tax capacity must be added to the original net tax capacity.

(e) The amount to be subtracted from the original net tax capacity of the district as a result of previously taxable real property within the district becoming tax exempt, or a reduction in the geographic area of the district, shall be the amount of original net tax capacity initially attributed to the property becoming tax exempt or being removed from the district. If the net tax capacity of property located within the tax increment financing district is reduced by reason of a court-ordered abatement, stipulation agreement, voluntary abatement made by the assessor or auditor or by order of the commissioner of revenue, the reduction shall be applied to the original net tax capacity

of the district when the property upon which the abatement is made has not been improved since the date of certification of the district and to the captured net tax capacity of the district in each year thereafter when the abatement relates to improvements made after the date of certification. The county auditor may specify reasonable form and content of the request for certification of the authority and any modification thereof pursuant to section 469.175, subdivision 4.

(f) If a parcel of property contained a substandard building that was demolished or removed and if the authority elects to treat the parcel as occupied by a substandard building under section 469.174, subdivision 10, paragraph (b), the auditor shall certify the original net tax capacity of the parcel using the greater of (1) the current net tax capacity of the parcel, or (2) the estimated market value of the parcel for the year in which the building was demolished or removed, but applying the class rates for the current year.

[For text of subd 1a, see M.S.2000]

Subd. 1b. **State tax and increment computation.** The original local tax rate and any other tax rate or amount used to calculate the amount of tax increment does not include any rate or amount attributable to a state levy, whether the state levy is imposed by section 275.02 or another provision of law.

[For text of subds 2 to 10, see M.S.2000]

Subd. 11. **Deduction for enforcement costs; appropriation.** (a) The county treasurer shall deduct an amount equal to 0.25 percent of any increment distributed to an authority or municipality. The county treasurer shall pay the amount deducted to the state treasurer for deposit in the state general fund.

(b) The amounts deducted and paid under paragraph (a) are appropriated to the state auditor for the cost of (1) the financial reporting of tax increment financing information and (2) the cost of examining and auditing of authorities' use of tax increment financing as provided under section 469.1771, subdivision 1. Notwithstanding section 16A.28 or any other law to the contrary, this appropriation does not cancel and remains available until spent.

(c) For taxes payable in 2002 and thereafter, the commissioner of revenue shall increase the percent in paragraph (a) to a percent equal to the product of the percent in paragraph (a) and the amount that the statewide tax increment levy for taxes payable in 2002 would have been without the class rate changes in this act and the elimination of the general education levy in this act divided by the statewide tax increment levy for taxes payable in 2002.

[For text of subd 12, see M.S.2000]

History: *1Sp2001 c 5 art 15 s 17-19*

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 2, 3, and 4, arising out of a failure of a municipality or authority to comply with the provisions of sections 469.174 to 469.1798, 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 469.1798

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 469.1798 or related provisions of law, the auditor shall notify the governing body of the municipality 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 to 6, see M.S.2000]

History: *1Sp2001 c 5 art 15 s 20*

469.178 TAX INCREMENT BONDING.

[For text of subds 1 to 6, see M.S.2000]

Subd. 7. **Interfund loans.** The authority or municipality may advance or loan money to finance expenditures under section 469.176, subdivision 4, from its general fund or any other fund under which it has legal authority to do so. The loan or advance must be approved, by resolution of the governing body, before money is transferred, advanced, or spent, whichever is earliest. The terms and conditions for repayment of the loan must be provided in writing and include, at a minimum, the principal amount, the interest rate, and maximum term. The maximum rate of interest permitted to be charged is limited to the greater of the rates specified under section 270.75 or 549.09.

History: *1Sp2001 c 5 art 15 s 21*

NOTE: Subdivision 7, as added by Laws 2001, First Special Session chapter 5, article 15, section 21, is effective for loans and advances made after July 31, 2001, and to districts with requests for certification made after July 31, 1979. Interfund loans and advances made before August 1, 2001, are ratified and approved, subject to the following restrictions: (1) the interest accrued or paid after July 31, 2001, may not exceed the limit in this section and (2) if there is no resolution or other document created contemporaneously with the making of the loan or advance that specifies the principal amount of the loan or advance, the principal amount of the loan or advance is limited to a maximum amount equal to the largest negative cash balance that existed at any time in the fund that received the undocumented loan or advance. An authority or municipality may modify the terms of an interfund loan or advance made before August 1, 2001, to comply with any of the requirements of this section as the authority or municipality deems appropriate. Laws 2001, First Special Session chapter 5, article 15, section 21, the effective date.

469.1782 SPECIAL LAW PROVISIONS.

Subdivision 1. [Repealed, 1Sp2001 c 5 art 15 s 41]

[For text of subd 2, see M.S.2000]

469.1792 SPECIAL DEFICIT AUTHORITY.

Subdivision 1. **Scope.** This section applies only to an authority with a preexisting district for which:

(1)(i) the increments from the district were insufficient to pay preexisting obligations as a result of the class rate changes or the elimination of the state-determined general education property tax levy under this act, or both; or

(ii) the development authority has a binding contract with a person requiring the authority to pay to the person an amount that may not exceed the increment from the district or a specific development within the district and as a result of the reduction in increment because of the class rate changes or the elimination of the state-determined general education property tax levy under this act, or both, the authority is unable to pay the full amount under the contract from the pledged increments or other increments from the district; and

(2) the municipality exercised its full authority to pool under section 469.1763, subdivision 6, and the transfer of increments did not eliminate the insufficiency under clause (1), item (i), or the inability to pay the full amount under clause (1), item (ii).

Subd. 2. **Definitions.** (a) For purposes of this section, the following terms have the meanings given.

(b) "Preexisting district" means a tax increment financing district for which the request for certification was made before August 1, 2001.

(c) "Preexisting obligation" means a bond or binding contract that:

(1) was issued or approved before August 1, 2001, or was issued pursuant to a binding contract entered into before August 1, 2001;

(2) is secured by increments from a preexisting district.

Subd. 3. **Actions authorized.** (a) An authority with a district qualifying under this section may take either or both of the following actions for any or all of its preexisting districts:

(1) the authority may elect that the original local tax rate under section 469.177, subdivision 1a, does not apply to the district; and

(2) the authority may elect the fiscal disparities contribution will be computed under section 469.177, subdivision 3, paragraph (a), regardless of the election that was made for the district.

(b) The authority may take action under this subdivision only after the municipality approves the action, by resolution, after notice and public hearing in the manner provided under section 469.175, subdivision 2.

History: *1Sp2001 c 5 art 15 s 22*

469.1793 DEVELOPER OBLIGATIONS CONTINUED.

If a developer or other private entity agreed to make payments to the authority or municipality to reimburse the municipality for the state aid offset under Minnesota Statutes 2000, section 273.1399, the obligation continues in effect, notwithstanding the repeal of section 273.1399. Payments received by the development authority are increments for purposes of the state grant program under section 469.1799.

History: *1Sp2001 c 5 art 15 s 23*

469.1799 TIF GRANTS; APPROPRIATIONS.

Subdivision 1. **TIF grants.** (a) In calendar year 2003 and thereafter, the commissioner of revenue shall pay grants to municipalities for deficits in tax increment financing districts caused by the changes in class rates and the elimination of the state-determined general education property tax levy under Laws 2001, First Special Session chapter 5. Municipalities must submit applications for the grants in a form prescribed by the commissioner no later than August 1 for grants payable during the calendar year. The maximum grant equals the lesser of:

(1) for taxes payable in the year before the grant is paid, the reduction in the tax increment financing district's revenues derived from increment resulting from the class rate changes and the elimination of the state-determined general education property tax levy under Laws 2001, First Special Session chapter 5; or

(2) the amount due during the calendar year to pay:

(i) a preexisting obligation as defined in section 469.1763, subdivision 6, but excluding the additional amount of a preexisting obligation that the municipality elects to include under paragraph (f) of that subdivision with respect to a preexisting obligation to a developer or property owner in the district or an assignee or successor in interest; less

(ii) the municipality's total tax increments, including unspent increments from previous years;

(iii) the amount of any state aid reductions that would have applied to any district in the municipality for the calendar year, if Minnesota Statutes 2000, section 273.1399, had not been repealed; and

(iv) the amount of any unpaid local contributions that the municipality would have been required to make for the calendar year under an election under Minnesota Statutes 2000, section 273.1399, subdivision 6, if that subdivision had not been repealed.

(b) The commissioner of revenue may require applicants for grants under this section to provide any information the commissioner deems appropriate. The commissioner shall calculate the amount under paragraph (a), clause (2), based on the reports for the tax increment financing district or districts filed with the state auditor on or before August 1 of the year in which the grant is to be paid.

(c) This subdivision applies only to deficits in tax increment districts for which:

(1) the request for certification of the district, or a district transferred under special law, was made before August 1, 2001;

(2) all timely reports have been filed with the state auditor, as required by section 469.175; and

(3) the authority and municipality have exercised any permitted action under section 469.1792, subdivision 3, to increase increments to pay preexisting obligations as defined under this section.

(d) The commissioner shall pay the grants under this section by December 26 of the year.

(e) For the purposes of this section, "tax increments" and "revenues derived from tax increments" have the meanings given in section 469.174, subdivision 25, except that the definition applies to all tax increment districts, regardless of when the request for certification was made and regardless of when the revenues were received, notwithstanding the effective date of section 469.174, subdivision 25. For purposes of this section, "bonds" and "binding contracts" do not include interfund loans.

(f) If the district was authorized or certified pursuant to a special law and the special law permitted original tax capacity to be reduced to zero, the required dates under paragraph (a), clause (2), and paragraph (c), clause (1), are extended to December 31, 2001.

Subd. 2. **School district abatement levy authority.** A school district that adopted an abatement resolution under sections 469.1812 to 469.1815, prior to August 1, 2001, pursuant to which all or a portion of its general education levy on a parcel was to be abated for taxes payable in 2002 or later years and pledged to the payment of bonds issued, or binding contracts entered into, prior to August 1, 2001, may annually levy an amount equal to the lesser of: (1) the amount specified for these purposes in the resolution for the taxes payable year; or (2) the amount of the general education tax levied on the property for which the abatements were granted for taxes payable in 2001. The levy authority in this subdivision is in addition to any other levy of the district, but this authority expires and may not be used for taxes payable in the year following the termination or expiration of the abatements under the resolution, without

giving any effect to an extension or modification of the resolution made after August 1, 2001.

Subd. 3. **Appropriation.** $91,000,000 in fiscal year 2002, and $38,000,000 in each fiscal year thereafter is appropriated to the commissioner of revenue from the general fund to make grants under this section. The appropriated amounts do not lapse at the end of a fiscal year. Each amount is available until the later of when expended or when this section is repealed. If the amount of grant entitlements under subdivision 1 for a year exceeds the amount available for grants, the commissioner of revenue shall reduce each grant proportionately so the total does not exceed the amount available.

History: *1Sp2001 c 5 art 15 s 24*

469.1812 DEFINITIONS.

[For text of subd 1, see M.S.2000]

Subd. 2. **Governing body.** "Governing body" means, for a city, the city council; for a school district, the school board; for a county, the county board; and for a town, the board of supervisors.

[For text of subds 3 and 4, see M.S.2000]

History: *1Sp2001 c 5 art 15 s 25*

469.1813 ABATEMENT AUTHORITY.

[For text of subds 1 to 5, see M.S.2000]

Subd. 6. **Duration limit.** (a) A political subdivision may grant an abatement for a period no longer than ten years, except as provided under paragraph (b). 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.

(b) A political subdivision proposing to abate taxes for a parcel may request, in writing, that the other political subdivisions in which the parcel is located grant an abatement for the property. If one of the other political subdivisions declines, in writing, to grant an abatement or if 90 days pass after receipt of the request to grant an abatement without a written response from one of the political subdivisions, the duration limit for an abatement for the parcel by the requesting political subdivision and any other participating political subdivision is increased to 15 years. If the political subdivision which declined to grant an abatement later grants an abatement for the parcel, the 15-year duration limit is reduced by one year for each year that the declining political subdivision grants an abatement for the parcel during the period of the abatement granted by the requesting political subdivision. The duration limit may not be reduced below the limit under paragraph (a).

[For text of subds 6a to 9, see M.S.2000]

History: *1Sp2001 c 5 art 15 s 26*

469.1814 BONDING AUTHORITY.

[For text of subds 1 to 5, see M.S.2000]

Subd. 6. **Levy to offset tax changes.** (a) This subdivision applies only to abatements pledged to pay preexisting obligations.

(b) For purposes of this subdivision, "preexisting obligation" means a bond or binding contract that:

(1) was issued or approved before August 1, 2001;

(2) is secured by abatements approved before August 1, 2001; and

(3) is not a general obligation.

(c) If a political subdivision granted an abatement pledged to pay a preexisting obligation and if the changes in the property tax class rates enacted in calendar year 2001 reduce the abatement by an amount sufficient to prevent payment in full of the preexisting obligation, the political subdivision may add to its levy under section 469.1815 an amount sufficient to provide an abatement equal to the least of:

(1) the amount of the abatement using the political subdivision's tax rate for the current year and the class rates for property taxes payable in 2001;

(2) the amount required to pay the amount due on the preexisting obligation for the year from the political subdivision; or

(3) the maximum dollar amount of the political subdivision's abatement, if any, under the abatement resolution.

History: *1Sp2001 c 5 art 15 s 27*

469.202 DESIGNATION OF TARGETED NEIGHBORHOODS.

[For text of subd 1, see M.S.2000]

Subd. 2. **Eligibility requirements for targeted neighborhoods.** An area within a city is eligible for designation as a targeted neighborhood if the area meets two of the following three criteria:

(a) The area had an unemployment rate that was twice the unemployment rate for the Minneapolis and Saint Paul standard metropolitan statistical area as determined by the most recent federal decennial census.

(b) The median household income in the area was no more than half the median household income for the Minneapolis and Saint Paul standard metropolitan statistical area as determined by the most recent federal decennial census.

(c) The area is characterized by residential dwelling units in need of substantial rehabilitation. An area qualifies under this paragraph if 25 percent or more of the residential dwelling units are in substandard condition as determined by the city, or if 70 percent or more of the residential dwelling units in the area were built before 1940 as determined by the most recent federal decennial census.

[For text of subd 3, see M.S.2000]

History: *1Sp2001 c 5 art 3 s 68*

469.301 DEFINITIONS.

Subdivision 1. **Generally.** In sections 469.301 to 469.304, the terms defined in this section have the meanings given them, unless the context indicates a different meaning.

[For text of subds 2 to 5, see M.S.2000]

Subd. 6. [Repealed, 2001 c 7 s 91]

Subd. 7. [Repealed, 2001 c 7 s 91]

Subd. 8. [Repealed, 2001 c 7 s 91]

History: *2001 c 7 s 76*

469.303 ELIGIBILITY REQUIREMENTS.

An area within the city is eligible for designation as an enterprise zone if the area (1) includes census tracts eligible for a federal empowerment zone or enterprise community as defined by the United States Department of Housing and Urban Development under Public Law Number 103-66, notwithstanding the maximum zone population standard under the federal empowerment zone program for cities with a population under 500,000, (2) is an area within a city of the second class that is designated as an economically depressed area by the United States Department of

Commerce, or (3) includes property located in St. Paul in a transit zone as defined in Minnesota Statutes 2000, section 473.3915, subdivision 3.

History: *1Sp2001 c 5 art 3 s 69*

469.304 APPLICATION FOR ENTERPRISE ZONE DESIGNATION.

Subdivision 1. **Submission of applications.** An applicant may seek enterprise zone designation by submitting an application to the commissioner. The commissioner shall establish procedures and forms for the submission of applications for enterprise zone designation. The commissioner may promulgate rules for the administration of the program.

[For text of subds 2 and 3, see M.S.2000]

History: *2001 c 7 s 77*