CHAPTER 469
ECONOMIC DEVELOPMENT

469.0001 MS 2006 [Renumbered 15.001]

HOUSING AND REDEVELOPMENT AUTHORITIES

469.001 PURPOSES.

The purposes of sections 469.001 to 469.047 are:

(1) to provide a sufficient supply of adequate, safe, and sanitary dwellings in order to protect the health, safety, morals, and welfare of the citizens of this state;

(2) to clear and redevelop blighted areas;

(3) to perform those duties according to comprehensive plans;

(4) to remedy the shortage of housing for low and moderate income residents, and to redevelop blighted areas, in situations in which private enterprise would not act without government participation or subsidies; and

(5) in cities of the first class, to provide housing for persons of all incomes.

Public participation in activities intended to meet the purposes of sections 469.001 to 469.047 and the exercise of powers confined by sections 469.001 to 469.047 are public uses and purposes for which private property may be acquired and public money spent.

History: *1987 c 291 s 1*

469.002 DEFINITIONS.

Subdivision 1. **Generally.** In sections 469.001 to 469.047, the terms defined in this section have the meanings given to them herein, unless the context indicates a different meaning.

Subd. 2. **Authority.** "Authority" means a housing and redevelopment authority created or authorized to be created by sections 469.001 to 469.047.

Subd. 3. **City.** "City" means a home rule charter or statutory city.

Subd. 4. **State public body.** "State public body" means any city, county, commission, district, authority, or other political subdivision or instrumentality of this state.

Subd. 5. **Governing body.** "Governing body" means the council, board of trustees, or other body charged with governing any state public body.

Subd. 6. **Mayor.** "Mayor" means the mayor of a city.

Subd. 7. **Clerk.** "Clerk" means the clerk of a city or the officer of any other state public

body charged with the duties customarily imposed on the clerk of a city.

Subd. 8. **Area of operation.** "Area of operation" means, in the case of an authority created in and for a city, county, or group of counties, the area within the territorial boundaries of that city, county, or group of counties.

Subd. 9. **Federal government.** "Federal government" includes the United States of America, the Department of Housing and Urban Development, or any other department, agency, or instrumentality of the United States of America.

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.

Subd. 11. **Blighted area.** "Blighted area" means any area with buildings or improvements which, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light, and sanitary facilities, excessive land coverage, deleterious land use, or obsolete layout, or any combination of these or other factors, are detrimental to the safety, health, morals, or welfare of the community.

Subd. 12. **Project.** "Project" means a housing project, a housing development project or a redevelopment project, or any combination of those projects. The term "project" also may be applied to all real and personal property, assets, cash, or other funds, held or used in connection with the development or operation of the project. The term "project" also includes an interest reduction program authorized by section 469.012, subdivision 7.

Subd. 13. **Housing project.** "Housing project" means any work or undertaking to provide decent, safe, and sanitary dwellings for persons of low income and their families.

Such work or undertaking may include acquisition or provision of buildings, land, equipment, facilities, and other real or personal property for necessary, convenient, or desirable appurtenances, streets, sewers, water service, utilities, site preparation, landscaping, administrative, community, health, recreational, welfare, or other purposes.

"Housing project" also includes the planning of the buildings and improvements, the acquisition of property, the demolition or removal of existing structures, the construction, reconstruction, alteration, and repair of the improvements and all other work in connection therewith.

Subd. 14. **Redevelopment project.** "Redevelopment project" means any work or

undertaking:

(1) to acquire blighted areas and other real property for the purpose of removing, preventing, or reducing blight, blighting factors, or the causes of blight;

(2) to clear any areas acquired and install, construct or reconstruct streets, utilities, and site improvements essential to the preparation of sites for uses in accordance with the redevelopment plan;

(3) to sell or lease land so acquired for uses in accordance with the redevelopment plan;

(4) to prepare a redevelopment plan, and to incur initiation, planning, survey and other administrative costs of a redevelopment project, and to prepare technical and financial plans and arrangements for buildings, structures, and improvements and all other work in connection therewith; or

(5) to conduct an urban renewal project. The term "urban renewal project" may include undertakings and activities for the elimination or for the prevention of the development or spread of slums or blighted or deteriorating areas and may involve any work or undertaking for that purpose constituting a redevelopment project or any rehabilitation or conservation work. For this purpose, "rehabilitation or conservation work" may include (i) carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements; (ii) acquisition of real property and demolition, removal, or rehabilitation of buildings and improvements thereon where necessary to eliminate unhealthful, unsanitary or unsafe conditions, lessen density, reduce traffic hazards, eliminate obsolete or other uses detrimental to the public welfare, or to otherwise remove or prevent the spread of blight or deterioration, to promote historic and architectural preservation, or to provide land for needed public facilities; (iii) installation, construction, or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out the objectives of the urban renewal project; (iv) the disposition, for uses in accordance with the objectives of the urban renewal project, of any property or part thereof acquired in the area of the project; provided that the disposition shall be in the manner prescribed in sections 469.001 to 469.047 for the disposition of property in a redevelopment project area; (v) relocation within or outside the project area of structures that will be restored and maintained for architectural or historic purposes; (vi) restoration of acquired properties of historic or architectural value; and (vii) construction of foundations and platforms necessary for the provision of air rights sites.

The term "redevelopment project" also means a redevelopment project initiated as then provided by law and approved by the governing body of the city prior to July 1, 1951, as prescribed by Minnesota Statutes 1949, section 462.521.

Subd. 15. **Housing development project.** "Housing development project" means any work or undertaking to provide housing for persons of moderate income and their families. This

work or undertaking may include the planning of building and improvements, the acquisition of real property which may be needed immediately or in the future for housing purposes, the construction, reconstruction, alteration and repair of new or existing buildings and the provisions of all equipment, facilities and other real or personal property for necessary, convenient or desirable appurtenances, streets, sewers, water service, utilities, site preparation, landscaping, administrative, community health, recreation or welfare or other purposes.

Subd. 16. **Redevelopment plan.** "Redevelopment plan" means a plan approved by the governing body, or by an agency designated by the governing body for the purpose of approving such plans or authorized by law to do so, of each city in which any of a redevelopment project is to be carried out, which plan provides an outline for the development or redevelopment of the area and is sufficiently complete (1) to indicate its relationship to definite local objectives as to appropriate land uses; and (2) to indicate general land uses and general standards of development or redevelopment.

Subd. 17. **Persons of low income and their families.** "Persons of low income and their families" means persons or families who lack a sufficient income to enable them, without financial assistance, to live in decent, safe, and sanitary dwellings, without overcrowding.

Subd. 18. **Persons of moderate income and their families.** "Persons of moderate income and their families" means persons and families whose income is not adequate to cause private enterprise to provide without governmental assistance a substantial supply of decent, safe, and sanitary housing at rents or prices within their financial means.

Subd. 19. **Bonds.** "Bonds" means any bonds, including refunding bonds, notes, interim certificates, debentures, or other obligations issued by an authority pursuant to sections 469.001 to 469.047.

Subd. 20. **Real property.** "Real property" includes all lands, together with improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest, and right, legal or equitable, therein, including terms for years.

Subd. 21. **Obligee of the authority; obligee.** "Obligee of the authority" or "obligee" includes any bondholder, and the federal government when it is a party to any contract with the authority.

Subd. 22. **General plan for the development of the locality as a whole.** "General plan for the development of the locality as a whole" means a plan adopted by a local planning agency or approved by the governing body of the city establishing general objectives for the future use of land in a locality, or if no such plan has been adopted or approved, the general land use proposals for the development of the locality established from time to time by the local planning agency or by the governing body of the city.

Subd. 23. **Veterans.** "Veterans" has the meaning given in section 197.447, except as otherwise defined in a contract with the federal government providing for veterans' preferences, or as may be required by any federal law or regulation as a condition of federal financial assistance for a project.

Subd. 24. **Section 8 program.** "Section 8 program" means an existing housing assistance payments program under Section 8 of the United States Housing Act of 1937, United States Code, title 42, section 1437f, as amended.

History: *1987 c 291 s 2; 1990 c 532 s 2,3; 1992 c 376 art 3 s 1; 1999 c 243 art 5 s 37*

469.003 CITY HOUSING AND REDEVELOPMENT AUTHORITY.

Subdivision 1. **Preliminary city findings and declaration.** There is created in each city in this state a public body, corporate and politic, to be known as the housing and redevelopment authority in and for that city. No such authority shall transact any business or exercise any powers until the governing body of the city shall, by resolution, find that in that city (1) substandard, slum, or blighted areas exist which cannot be redeveloped without government assistance, or (2) there is a shortage of decent, safe, and sanitary dwelling accommodations available to persons of low income and their families at rentals they can afford, and shall declare that there is need for a housing and redevelopment authority to function in that city. In determining whether dwelling accommodations are unsafe or unsanitary, or whether substandard, slum, or blighted areas exist, the governing body may consider the degree of deterioration, obsolescence, or overcrowding, the percentage of land coverage, the light, air, space, and access available to inhabitants of the dwelling accommodations, the size and arrangement of rooms, the sanitary facilities, the extent to which conditions exist in the buildings that endanger life or property by fire or other causes, and the original land planning, lot layout, and conditions of title in the area.

Subd. 2. **Public hearing.** The governing body of a city shall consider such a resolution only after a public hearing is held on it after publication of notice in a newspaper of general circulation in the city at least once not less than ten days nor more than 30 days prior to the date of the hearing. Opportunity to be heard shall be granted to all residents of the city and to all other interested persons. The resolution shall be published in the same manner in which ordinances are published in the municipality.

Subd. 3. **Conclusiveness of resolution.** When the resolution becomes finally effective, it shall be sufficient and conclusive for all purposes if it declares that there is need for an authority and finds in substantially the terms provided in subdivision 1 that the conditions therein described exist.

Subd. 4. **Copy filed with commissioner of employment and economic development.** When the resolution becomes finally effective, the clerk of the city shall file a certified copy of

it with the commissioner of employment and economic development. In any suit, action, or proceeding involving the validity or enforcement of or relating to any contract of an authority, the authority shall be conclusively deemed to have become established and authorized to transact business and exercise its powers upon that filing. Proof of the resolution and of that filing may be made in any such suit, action, or proceeding by a certificate of the commissioner of employment and economic development.

Subd. 5. **Commissioners.** An authority shall consist of up to seven commissioners, who shall be residents of the area of operation of the authority, who shall be appointed after the resolution becomes finally effective. If any additional commissioners are appointed, one of the commissioners must be appointed in accordance with the requirements of Code of Federal Regulations, title 24, part 964.

Subd. 6. **Appointment; approval; term; vacancy.** The commissioners shall be appointed by the mayor, with the approval of the governing body. Those initially appointed shall be appointed for terms of one, two, three, four, and five years, respectively. Thereafter all commissioners shall be appointed for five-year terms. Each vacancy in an unexpired term shall be filled for the remainder of the term for which the original appointment was made. Any member of the governing body of a city may be appointed and may serve as a commissioner of the authority for the city. The council of any city which appoints members of the city council as commissioners may set the terms of office of a commissioner to coincide with the commissioner's term of office as a council member.

Subd. 7. **Certificate of appointment; filing.** Commissioners shall hold office until their successors have been appointed and qualified. A certificate of appointment of each commissioner shall be filed with the clerk and a certified copy shall be transmitted to the commissioner of employment and economic development. A certificate so filed shall be conclusive evidence of appointment.

History: *1986 c 444; 1987 c 291 s 3; 1987 c 312 art 1 s 26 subd 2; 2000 c 455 art 2 s 2; 1Sp2003 c 4 s 1*

469.004 COUNTY AND MULTICOUNTY AUTHORITIES.

Subdivision 1. **Preliminary county findings and declaration.** There is created in each county in this state other than those counties in which a county housing authority has been created by special act, a public body, corporate and politic, to be known as the housing and redevelopment authority of that county, hereinafter referred to as "county authority." No county authority shall transact any business or exercise any powers until the governing body of the county, by resolution, finds that there is need for a county authority to function in the county. The governing body shall consider the need for a county authority to function (1) on the governing body's own motion or (2)

upon the filing of a petition signed by 25 qualified voters of the county asserting that there is need for a county authority to function in the county and requesting that the governing body so declare. The governing body shall adopt a resolution declaring that there is need for a county authority to function in the county if it makes the findings required in section 469.003, subdivision 1.

Subd. 1a. **Ramsey County authority.** Ramsey County may exercise the powers of a housing and redevelopment authority. Before the commencement of a project by Ramsey County acting as a housing and redevelopment authority, the governing body of the municipality in which the project is to be located shall, by majority vote, approve the project as recommended by the authority. A resolution of the county board may provide that the board will constitute the county housing and redevelopment authority.

Subd. 2. **Multicounty authorities.** If the governing body of each of two or more cities or counties, or combinations of cities and counties, hereinafter referred to as "political subdivisions," by resolution declares that there is a need for one housing and redevelopment authority to exercise in those political subdivisions the powers and other functions prescribed for a multicounty housing and redevelopment authority, a public body corporate and politic to be known as a multicounty housing and redevelopment authority shall exist for all of those political subdivisions. That authority shall exercise its powers and other functions in those political subdivisions in lieu of the authority for each such political subdivision.

Subd. 3. **Findings.** The governing body shall make that declaration if it finds (1) that substandard, slum, or deteriorated areas exist in the political subdivision which cannot be redeveloped without government assistance, or there is a shortage of decent, safe and sanitary dwelling accommodations available to persons of low income at rentals or prices they can afford, and (2) that a multicounty authority would be a more effective, efficient or economical administrative unit than the housing and redevelopment authority of the political subdivision to carry out the purposes of sections 469.001 to 469.047, in the political subdivision.

In determining whether dwelling accommodations are unsafe or unsanitary a governing body may take into consideration the factors provided in section 469.003.

Subd. 4. **Sufficiency and conclusiveness of resolution.** When the resolution becomes finally effective, it shall be deemed sufficient and conclusive for all purposes if it declares that there is need for a county or multicounty authority and finds in substantially the terms provided in subdivision 3 that the conditions therein described exist.

Subd. 5. **Function of authority.** A county or multicounty housing authority will serve, program, develop, and manage all housing programs under its jurisdiction. Where a county or multicounty authority has been established, additional city housing and redevelopment authorities shall not be created within the area of operation of the county or multicounty authority without

the explicit concurrence of the county or multicounty housing and redevelopment authority and the commissioner of employment and economic development. City housing and redevelopment authorities must petition the county or multicounty authority for authorization to establish a local housing authority and this petition must be approved by the commissioner of employment and economic development. This subdivision does not apply if a county or multicounty authority has not initiated or does not have in progress an active program or has not applied for a public housing, Section 8, or redevelopment program from the federal government for a period of 12 months after its establishment.

Subd. 6. **Copy filed with commissioner of employment and economic development.** When the resolution becomes finally effective, the clerk of the political subdivision shall file a certified copy with the commissioner of employment and economic development. The provisions of section 469.003, subdivision 4, regarding establishment of authorities apply to filings under this subdivision.

History: *1987 c 291 s 4; 1987 c 312 art 1 s 26 subd 2; 1987 c 384 art 3 s 31; 1990 c 532 s 4; 1992 c 511 art 9 s 16,17; 1994 c 587 art 9 s 2; 1Sp2003 c 4 s 1*

469.005 AREA OF OPERATION.

Subdivision 1. **County and multicounty authorities.** The area of operation of a county authority shall include all of the county for which it is created, and in case of a multicounty authority, it shall include all of the political subdivisions for which the multicounty authority is created; provided, that a county authority or a multicounty authority shall not undertake any project within the boundaries of any city which has not empowered the authority to function therein as provided in section 469.004 unless a resolution has been adopted by the governing body of the city, and by any authority which has been established in the city, declaring that there is a need for the county or multicounty authority to exercise its powers in the city. A resolution is not required for the operation of a Section 8 program or a public housing scattered site project.

Subd. 2. **Multicounty authorities; increase or decrease.** The area of operation of a multicounty authority shall be increased to include one or more additional political subdivisions not already within a multicounty authority if the governing body of the additional political subdivision makes the findings required by section 469.004 and if the political subdivisions then included in the area of operation of the multicounty authority and the commissioners of the multicounty authority adopt a resolution declaring that the multicounty authority would be a more effective, efficient or economical administrative unit to carry out the purposes of sections 469.001 to 469.047 if the area of operation of the multicounty authority were increased to include the additional political subdivision.

The area of operation of a multicounty authority may be decreased to exclude one or more political subdivisions from the area if the governing body of each of the political subdivisions in the area and the commissioners of the multicounty authority each adopt a resolution declaring that there is a need for excluding the political subdivision from the area. No such action may be taken if the multicounty authority has outstanding any bonds involving a housing project in the political subdivision to be excluded unless all holders of the bonds consent in writing to the action. If the action decreases the area of operation of the multicounty authority to only one political subdivision, the authority shall become a housing and redevelopment authority for that county or city in the same manner as though the authority were initially created by and authorized to exercise its powers in that county or city, and the commissioners of that authority shall be appointed as provided for the appointment of commissioners of a housing and redevelopment authority created for a county or a city.

The governing body of each of the political subdivisions in the area of operation of the multicounty authority and the commissioners of the multicounty authority shall adopt a resolution declaring that there is a need for excluding a political subdivision from the area if:

(1) each governing body of the political subdivisions to remain in the area of operation of the multicounty authority and the commissioners of the multicounty authority find that, because of facts arising or determined subsequent to the time when the area first included the political subdivision to be excluded, the multicounty authority would be a more effective, efficient or economical administrative unit for the purposes of sections 469.001 to 469.047 if the political subdivision were excluded from the area; and

(2) the governing body of the political subdivision to be excluded and the commissioners of the multicounty authority each find that, because of those changed facts, the purposes of sections 469.001 to 469.047 could be carried out more efficiently or economically in the political subdivision if the area of operation of the multicounty authority did not include the political subdivision.

Subd. 3. **Public hearing; notice; publication; resolution.** The governing body of a political subdivision shall not adopt any resolution authorized by this section and section 469.004 unless a public hearing has been held. The clerk of the political subdivision shall give notice of the time, place, and purpose of the public hearing not less than ten days nor more than 30 days prior to the day on which the hearing is to be held, in a manner appropriate to inform the public. Upon the date fixed for the public hearing, an opportunity to be heard shall be granted to all residents of the political subdivision and to all other interested persons.

Subd. 4. **Continuation of active city authorities.** Active city authorities established on or before June 30, 1971, will continue to function and operate under the provisions of sections 469.001 to 469.047. An "active city authority" means an authority that (1) has been legally

formulated and a resolution for which has been filed with the commissioner of employment and economic development and (2) has an active program or proof of an application for a public housing or redevelopment program received by the federal government on or before June 30, 1971.

History: *1987 c 291 s 5; 1987 c 312 art 1 s 26 subd 2; 1990 c 532 s 5; 1990 c 612 s 8; 1993 c 320 s 1; 2004 c 206 s 52*

469.006 APPOINTMENT, QUALIFICATIONS, TENURE OF COMMISSIONERS.

Subdivision 1. **County commissioners.** When the governing body of a county adopts a resolution under section 469.004, the governing body shall appoint five persons or the number of commissioners for the governing body, plus up to two additional commissioners, as commissioners of the county authority. If any additional commissioners are appointed, one of the commissioners must be appointed in accordance with the requirements of Code of Federal Regulations, title 24, part 964. The membership of the commission will reflect an areawide distribution on a representative basis. The commissioners who are first appointed shall be designated to serve for terms of one, two, three, four, and five years respectively, from the date of their appointment. Thereafter commissioners shall be appointed for a term of office of five years except that all vacancies shall be filled for the unexpired term. Persons may be appointed as commissioners if they reside within the boundaries or area, and are otherwise eligible for the appointments under sections 469.001 to 469.047.

Subd. 2. **Multicounty commissioners.** The governing body in the case of a county, and the mayor with the approval of the governing body in the case of a city, of each political subdivision included in a multicounty authority shall appoint one person as a commissioner of the authority at or after the time of the adoption of the resolution establishing the authority.

In the case of a multicounty authority comprising only two or three political subdivisions, the appointing authorities of the participating political subdivisions shall each appoint one additional commissioner whose term of office shall be as provided for a commissioner of a multicounty authority. If any additional commissioners are appointed, one of the commissioners must be appointed in accordance with the requirements of Code of Federal Regulations, title 24, part 964.

In the case of a multicounty authority comprising more than three political subdivisions, the appointing authorities of the participating political subdivisions may each appoint one additional commissioner whose term of office shall be as provided for a commissioner of a multicounty authority. The housing and redevelopment authority board of commissioners of a multicounty authority may appoint one or two additional commissioners in order to comply with the requirements of Code of Federal Regulations, title 24, part 964. The appointment must be

approved by a majority of the commissioners of each of the political subdivisions comprising the multicounty authority.

When the area of operation of a multicounty authority is increased to include an additional political subdivision, the appointing authority of each additional political subdivision shall appoint one or, if appropriate, two commissioners of the multicounty authority.

The appointing authority of each political subdivision shall appoint the successors of the commissioner appointed by it. The commissioners of a multicounty authority shall be appointed for terms of five years except that all vacancies shall be filled for the unexpired terms.

Subd. 3. **Certificates of appointment.** A certified copy of the certificate of appointment of each commissioner shall be filed with the commissioner of employment and economic development.

History: *1987 c 291 s 6; 1987 c 312 art 1 s 26 subd 2; 1991 c 33 s 1; 1994 c 614 s 7; 2000 c 455 art 2 s 3,4; 1Sp2003 c 4 s 1*

469.007 POWERS OF COUNTY AND MULTICOUNTY AUTHORITIES.

Subdivision 1. **Powers.** A county or multicounty authority and its commissioners shall, within the area of operation of the authority, have the same functions, rights, powers, duties, privileges, immunities, and limitations as are provided for housing and redevelopment authorities created for cities, and for the commissioners of those authorities. The provisions of law applicable to housing and redevelopment authorities created for cities and their commissioners shall be applicable to county and multicounty authorities and their commissioners, except as clearly indicated otherwise.

Subd. 2. **Powers as to housing development projects.** When a county or multicounty authority undertakes any housing project or housing development project involving the acquisition of multifamily housing rental properties that (1) were financed under the federal Section 8 or Section 236 programs, or (2) are designed to be affordable to persons or families with incomes not greater than 80 percent of median income for the metropolitan statistical area or nonmetropolitan county, and are located within any city or town, the authority shall notify the governing body of the city or town in writing of the location of the housing project or housing development project. If the governing body fails to take action on a housing project or housing development project in a writing which sets forth its reasons for the action within 30 days, the governing body is considered to have approved the location of the housing project or housing development project for purposes of any special or general law requiring local approval of the location of housing projects and housing development projects undertaken by county or multicounty authorities.

History: *1987 c 291 s 7; 1989 c 328 art 3 s 4*

469.008 EFFECT UPON CITY HOUSING AND REDEVELOPMENT AUTHORITIES.

Nothing in sections 469.004 to 469.008 shall alter or impair the powers and obligations of city housing and redevelopment authorities created under Minnesota Statutes 1969, chapter 462, prior to June 8, 1971, nor shall the area of operation of such city authority be included within the area of operation of a county or multicounty authority created pursuant to sections 469.004 to 469.008. With the consent of the board of commissioners of a city authority and the governing body of the city, a city authority may become a part of a county or multicounty authority upon assumption by the authority of the obligations of the city authority.

History: *1987 c 291 s 8*

469.009 CONFLICT OF INTEREST; PENALTIES FOR FAILURE TO DISCLOSE.

Subdivision 1. **Disclosure.** Before taking an action or making a decision which could substantially affect the commissioner's or an employee's financial interests or those of an organization with which the commissioner or an employee is associated, a commissioner or employee of an authority shall (1) prepare a written statement describing the matter requiring action or decision and the nature of the potential conflict of interest and (2) submit the statement to the commissioners of the authority. The disclosure shall be entered upon the minutes of the authority at its next meeting. The disclosure statement must be submitted no later than one week after the employee or commissioner becomes aware of the potential conflict of interest. However, no disclosure statement is required if the effect on the commissioner or employee of the decision or act will be no greater than on other members of the business, profession or occupation or if the effect on the organization with which the commissioner or employee is affiliated is indirect, remote, and insubstantial. A potential conflict of interest is present if the commissioner or employee knows or has reason to know that the organization with which the commissioner or employee is affiliated is or is reasonably likely to become a participant in a project or development which will be affected by the action or decision. Any individual who knowingly fails to submit a statement required by this subdivision or submits a statement which the individual knows contains false information or omits required information is guilty of a gross misdemeanor.

Subd. 2. **Effect of disclosure.** If an employee has a potential conflict of interest, the employee's superior shall immediately assign the matter to another employee who does not have a potential conflict of interest. A commissioner who has a potential conflict of interest shall not attempt to influence an employee in any matter related to the action or decision in question, shall not take part in the action or decision, and shall not be counted toward a quorum during the portion of any meeting of the authority in which the action or decision is to be considered. Any individual who knowingly violates this subdivision is guilty of a gross misdemeanor.

Subd. 3. **Conflicts forbidden.** A commissioner or employee of an authority who knowingly

takes part in any manner in making any sale, lease, or contract in the commissioner's or employee's official capacity in which the commissioner or employee has a personal financial interest is guilty of a gross misdemeanor.

Subd. 4. **Agent or attorney.** For one year after termination of a position as a commissioner or employee of an authority, no former commissioner or former employee of an authority shall appear personally before any court or governmental department or agency as agent or attorney for anyone other than the authority in connection with any proceeding, application, request for ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which the authority is substantially interested, and with respect to which the commissioner or employee took any action or made any decision as a commissioner or employee of the authority at any time within a period of one year prior to the termination of that position.

Subd. 5. **Limitations.** With respect to each program established by the authority to provide financial assistance or financing for real property other than rental assistance programs, an employee or commissioner may receive such financial assistance or financing not more than once.

Subd. 6. **Injunction.** The county attorney may seek an injunction in the district court to enforce the provisions of this section.

History: *1987 c 291 s 9*

469.010 REMOVAL; HEARING; NOTICE.

For inefficiency or neglect of duty, or misconduct in office, a commissioner may be removed by the governing body of the municipality. The commissioner must be given a copy of the charges at least ten days prior to a hearing at which the commissioner has an opportunity to be heard in person or by counsel. When charges in writing have been preferred against a commissioner, pending final action thereon the governing body may temporarily suspend the commissioner. If it is found that those charges have not been substantiated, the commissioner shall immediately be reinstated in office. When any commissioner is removed, a record of the proceedings, together with the charges and findings thereon, shall be filed in the office of the clerk.

History: *1987 c 291 s 10*

469.011 AUTHORITY OPERATIONS.

Subdivision 1. **Powers in commissioners; quorum.** The powers of each authority shall be vested in its commissioners in office at any time; a majority of whom shall constitute a quorum for all purposes.

Subd. 2. **Officers; bylaws.** Each authority shall select a chair and a secretary from among its commissioners and shall adopt bylaws and other rules for the conduct of its affairs that it deems appropriate.

Subd. 3. **Meetings.** The regular meetings of an authority shall be held in a fixed place, except that meetings of a multicounty authority may be held anywhere within the boundaries of the area of operation of the authority or within any additional area where the authority is authorized to undertake a project, and shall be open to the public.

Subd. 4. **Expenses; compensation.** Each commissioner may receive necessary expenses, including traveling expenses, incurred in the performance of duties. Each commissioner may be paid up to $75 for attending each regular and special meeting of the authority. Commissioners who are full-time state employees or full-time employees of the political subdivisions of the state may not receive the daily payment, but they may suffer no loss in compensation or benefits from the state or a political subdivision as a result of their service on the board. Commissioners who are elected officials may receive the daily payment for a particular day only if they do not receive any other daily payment for public service on that day. Commissioners who are full-time state employees or full-time employees of the political subdivisions of the state may receive the expenses provided for in this subdivision unless the expenses are reimbursed by another source.

History: *1987 c 291 s 11; 1992 c 376 art 3 s 2; 1993 c 369 s 144; 2000 c 455 art 2 s 5*

469.012 PUBLIC BODY; POWERS, DUTIES, PROGRAMS; TAXES LIMITED.

Subdivision 1. MS 2002 [Renumbered subdivisions 1 to 2j]

Subdivision 1. **All-purpose, other powers here.** (a) 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.

(b) Its powers include the powers in subdivisions 1a through 2j, in addition to others granted in sections 469.001 to 469.047.

Subd. 1a. **Lawsuits, seal, perpetual succession, rules.** An authority may:

(1) sue and be sued;

(2) have a seal, which shall be judicially noticed, and may alter it;

(3) have perpetual succession; and

(4) make, amend, and repeal rules consistent with sections 469.001 to 469.047.

Subd. 1b. **Director, other staff; legal services; available public services.** An authority may 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, call upon the chief law officer of the city or employ its own counsel and legal staff; and, so far as practicable, 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.

Subd. 1c. **Delegation.** An authority may delegate to one or more of its agents or employees the powers or duties it deems proper.

Subd. 1d. **Projects.** An authority may, within its area of operation, undertake, prepare, carry out, and operate projects and provide for the construction, reconstruction, improvement, extension, alteration, or repair of any project or part thereof.

Subd. 1e. **Property, contracts, other instruments.** An authority may, subject to the provisions of section 469.026, give, sell, transfer, convey, or otherwise dispose of real or personal property or any interest therein and execute leases, deeds, conveyances, negotiable instruments, purchase agreements, and other contracts or instruments.

Subd. 1f. **Necessary or convenient action.** An authority may take action that is necessary or convenient to carry out the purposes of these sections.

Subd. 1g. **Get property; eminent domain.** (a) An authority may, within its area of operation, 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, 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:

(1) 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

(2) to carry out a redevelopment project.

(b) Real property needed or convenient for a project may be acquired by the authority for the project by condemnation pursuant to this section.

(c) Prior to adoption of a resolution authorizing acquisition of property by condemnation, the governing body of the authority must hold a public hearing on the proposed acquisition after published notice in a newspaper of general circulation in the municipality, which must be made at least one time not less than ten days nor more than 30 days prior to the date of the hearing. The notice must reasonably describe the property to be acquired and state that the purpose of the hearing is to consider acquisition by exercise of the authority's powers of eminent domain. Not less than ten days before the hearing, notice of the hearing must also be mailed to the owner of each parcel proposed to be acquired, but failure to give mailed notice or any defects in the notice does not invalidate the acquisition. For the purpose of giving mailed notice, owners are determined in accordance with section 429.031, subdivision 1, paragraph (a).

(d) Property acquired by condemnation under this section may include 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.

(e) 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.

Subd. 1h. **Redevelopment.** (a) An authority may, within its area of operation, and without the adoption of an urban renewal plan, acquire, by all means as set forth in subdivision 1g but without the adoption of a resolution provided for in subdivision 1g, real property, and demolish, remove, rehabilitate, or reconstruct the buildings and improvements or construct new buildings and improvements thereon, or so provide through other means as set forth in Laws 1974, chapter 228, or grade, fill, and construct foundations or otherwise prepare the site for improvements.

(b) 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.

(c) 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.

(d) Real property with buildings or improvements thereon shall only be acquired under this subdivision when the buildings or improvements are substandard.

(e) The exercise of the power of eminent domain under this subdivision 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 subdivision 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.

(f) For the purpose of this subdivision, 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.

(g) The exercise of the power of eminent domain under this subdivision is subject to the notice and hearing requirements described in subdivision 1g.

Subd. 1i. **Set, use income levels.** An authority may, within its area of operation, 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.

Subd. 1j. **Relocation aid.** An authority may 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.

Subd. 1k. **Property tax exemption; equitable local cooperation.** (a) An authority may 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.

(b) 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.

Subd. 1l. **Cooperate, be agent; take over federal project.** An authority may 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 purchase, lease, manage, or otherwise take over any housing project already owned and operated by the federal government.

Subd. 1m. **Plans for rehabilitation, law enforcement.** An authority may 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:

(1) the use of land and the use and occupancy of buildings and improvements, and

(2) the compulsory repair, rehabilitation, demolition, or removal of buildings and improvements.

Subd. 1n. **Activities to get rid of slums, blight.** 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.

Subd. 1o. **Loans; assistance.** An authority may 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.

Subd. 1p. **Conditions by, default to, U.S.; reconveyance.** An authority may:

(1) 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; and

(2) 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.

Subd. 1q. **Issue bonds; give security.** An authority may 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.

Subd. 1r. **Invest idle money.** An authority may 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.

Subd. 1s. **Identify blight, bad housing.** An authority may, within its area of operation, determine where blight exists or where there is unsafe, unsanitary, or overcrowded housing.

Subd. 1t. **Needs assessment.** (a) An authority may:

(1) carry out studies of the housing and redevelopment needs within its area of operation and of the meeting of those needs; and

(2) make the results of those studies and analyses available to the public and to building, housing, and supply industries.

(b) Studies under paragraph (a) include the 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.

Subd. 1u. **Plan if no local plan.** An authority may, 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, make or cause to be made a plan to be used as a guide in the more detailed planning of housing and redevelopment areas.

Subd. 1v. **Lease; set rent.** An authority may 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.

Subd. 1w. **Have, fix, get rid of property.** An authority may:

(1) own, hold, and improve real or personal property, and

(2) sell, lease, exchange, transfer, assign, pledge, or dispose of any real or personal property or any interest therein.

Subd. 1x. **Insurance.** An authority may insure or provide for the insurance of any real or personal property or operations of the authority against any risks or hazards.

Subd. 1y. [Reserved]

Subd. 1z. [Reserved]

Subd. 2. **Government insurance, guarantees for bonds.** An authority may 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.

Subd. 2a. **Necessary spending.** An authority may make expenditures necessary to carry out the purposes of sections 469.001 to 469.047.

Subd. 2b. **Relocation help to displaced.** An authority may 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.

Subd. 2c. **Catalogs; disposable property.** An authority may:

(1) 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 subdivision 1g, that is owned or controlled by the authority or by the governing body within its area of operation; and

(2) 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.

Subd. 2d. **Comment on code enforcement.** An authority may 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.

Subd. 2e. **Suggest use of city powers on bad buildings.** An authority may 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).

Subd. 2f. **Sale of loan security.** An authority may 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.

Subd. 2g. **Get, sell subsidized affordable housing.** An authority may, within its area of operation, 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.

Subd. 2h. **Section 8 programs.** (a) An authority may apply for, enter into contracts with the federal government, administer, and carry out a Section 8 program.

(b) 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.

(c) 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.

Subd. 2i. **Receivers, assignment of rent as security.** An authority may 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.

Subd. 2j. **May be in LLP, LLC, or corporation; bound as if HRA.** An authority may become a member or shareholder in and enter into or form limited partnerships, limited liability companies, or corporations for the purpose of developing, constructing, rehabilitating, managing, supporting, or preserving housing projects and housing development projects, including low-income housing tax credit projects. These limited partnerships, limited liability companies, or corporations are subject to all of the provisions of sections 469.001 to 469.047 and other laws that apply to housing and redevelopment authorities, as if the limited partnership, limited liability company, or corporation were a housing and redevelopment authority.

Subd. 3. **Exercise of HRA powers.** (a) An authority may exercise all or any part or combination of the powers granted by sections 469.001 to 469.047 within its area of operation.

(b) Any two or more authorities may join with one another in the exercise, either jointly or otherwise, of any or all of their powers for the purpose of financing, including the issuance of bonds and giving security therefor, planning, undertaking, owning, constructing, operating, or contracting with respect to a housing project located within the area of operation of any one or more of the authorities. For this purpose an authority may by resolution prescribe and authorize any other housing authority, so joining with it, to act on its behalf with respect to any or all powers, as its agent or otherwise, in the name of the authority so joining or in its own name.

(c) A city, county, or multicounty authority may by resolution authorize another housing authority to exercise its powers within the authorizing authority's area of operation at the same time that the authorizing authority is exercising the same powers.

(d) A county or city may join with any authority to permit the authority, on behalf of the county, town within the county, or city, to plan, undertake, administer, and carry out a leased existing housing assistance payments program, pursuant to Section 8 of the United States Housing Act of 1937 as amended, 42 United States Code, section 1437f.

(e) A city may so join with an authority unless there is an authority in the city which has been authorized by resolution under section 469.003 to transact business or exercise powers.

(f) A county may so join with an authority unless:

(1) there is a county authority which has been authorized by resolution under section 469.004 to exercise powers, or the county is a member of a multicounty authority, and

(2) the authority has initiated or has in progress an active program or has applied for federal assistance in a public housing, Section 8, or redevelopment program within 12 months after its establishment.

(g) Notwithstanding the other provisions of this subdivision, an authority administering and carrying out a leased existing housing assistance payments program, under Section 8 of the United States Housing Act of 1937, United States Code, title 42, section 1437f, as amended, may administer the leased existing housing assistance payments program under the statutory and regulatory portability provisions of the federal Section 8 existing housing assistance payments program, United States Code, title 42, section 1437f(r), as amended.

Subd. 4. **Subject to laws of locality.** All projects shall be subject to the planning, zoning, sanitary, and building laws, ordinances, and regulations applicable to the locality in which the project is situated.

Subd. 4a. **Veterans' preferences.** An authority may include in any contract with the federal government provision for veterans' and service persons' preferences that may be required by any federal law or regulation as a condition of federal financial assistance for a project.

Subd. 5. [Repealed, 1989 c 335 art 1 s 270]

Subd. 6. **Housing rehabilitation loan, grant program.** An authority may develop and administer a housing rehabilitation loan and grant program with respect to property located anywhere within its boundaries which is owned by persons of low and moderate income, on the terms and conditions it determines.

Subd. 7. **Interest reduction program.** (a) An authority may develop and administer an interest reduction program to assist the financing of the construction, rehabilitation, and purchase of housing units which are intended primarily for occupancy by individuals of low or moderate income and related and subordinate facilities.

(b) An authority may:

(1) pay in periodic payments or in a lump-sum payment any or all of the interest on loans made pursuant to chapter 462C or subdivision 6;

(2) pay any or all of the interest on bonds issued pursuant to chapter 462C, or pursuant to sections 469.001 to 469.047 for the purpose of making loans authorized by subdivision 6;

(3) pay in periodic payments or in a lump-sum payment any or all of the interest on loans made by private lenders to purchasers of housing units;

(4) pay any or all of the interest due on loans made by private lenders to a developer for the construction or rehabilitation of housing units;

(5) pay in periodic payments or in a lump-sum payment any or all of the interest on loans made by any person to a developer for the construction, rehabilitation, and purchase of commercial facilities which are related and subordinate to the construction, rehabilitation, or purchase of housing units that receive interest reduction assistance provided that the entire development is composed primarily of housing units;

(6) pay any or all of the interest on bonds issued pursuant to sections 469.152 to 469.165, when the bonds are issued for a project that is related and subordinate to the construction, rehabilitation, or purchase of housing units that receive interest reduction assistance provided that the entire development is composed primarily of housing units;

(7) pay in periodic payments or in a lump-sum payment any or all of the interest on loans made pursuant to section 469.184 for the rehabilitation or preservation of small- and medium-sized commercial buildings; and

(8) pay any or all of the interest on bonds issued pursuant to section 469.184.

Subd. 8. **Interest reduction program; considerations, limits.** (a) In developing the interest reduction program authorized by subdivision 7 the authority shall consider:

(1) the availability and affordability of other governmental programs;

(2) the availability and affordability of private market financing; and

(3) the need for additional affordable mortgage credit to encourage the construction and enable the purchase of housing units within the jurisdiction of the authority.

(b) The authority shall adopt rules for the interest reduction program. Interest reduction assistance shall not be provided if the authority determines that financing for the purchase of a housing unit or for the construction or rehabilitation of housing units is otherwise available from private lenders upon terms and conditions that are affordable by the applicant, as provided by the authority in its rules.

(c) For the purposes of this subdivision an "assisted housing unit" is a housing unit which is rented or to be rented and which is a part of a rental housing development where the financing for the rental housing development is assisted with interest reduction assistance provided by the authority during the calendar year.

(d) If interest reduction assistance is provided for construction period interest for a rental housing development, the housing units in the housing development shall be considered assisted housing units for a period after occupancy of the housing units which is equal to the period during which interest reduction assistance is provided to assist the construction financing of the rental housing development.

(e) In any calendar year when an authority provides interest reduction assistance for assisted housing units:

(1) at least 20 percent of the total assisted housing units within the jurisdiction of the authority shall be held available for rental to families or individuals with an adjusted gross income which is equal to or less than 80 percent of the median family income; and

(2) at least an additional 55 percent of the total assisted housing units within the jurisdiction of the authority shall be held available for rental to individuals or families with an annual adjusted gross income which is equal to or less than 66 times 120 percent of the monthly fair market rent for the unit established by the United States Department of Housing and Urban Development.

(f) At least 80 percent of the aggregate dollar amount of funds appropriated by an authority within any calendar year to provide interest reduction assistance for financing of construction, rehabilitation, or purchase of single-family housing, as that term is defined in section 462C.02, subdivision 4, shall be appropriated for housing units that are to be sold to or occupied by families or individuals with an adjusted gross income which is equal to or less than 110 percent of median family income.

(g) For the purposes of this subdivision, "median family income" means the median family income established by the United States Department of Housing and Urban Development for the nonmetropolitan county or the standard metropolitan statistical area, as the case may be.

(h) The adjusted gross income must be adjusted by the authority for family size.

(i) The limitations imposed upon assisted housing units by this subdivision do not apply to interest reduction assistance for a rental housing development located in a targeted area as defined in section 462C.02.

(j) An authority that establishes a program pursuant to this subdivision shall by January 2 each year report to the commissioner of employment and economic development a description of the program established and a description of the recipients of interest reduction assistance.

Subd. 9. **Interest reduction program; payoff to HRA on sale.** (a) Under any interest reduction program authorized by subdivision 7 which provides interest reduction assistance pursuant to paragraph (b), clauses (1) to (6), the authority shall obtain an agreement from the developer or other benefited owner of the property. The agreement shall provide that, upon the benefited owner's sale or transfer of the property, the authority shall be paid in an amount determined under paragraph (c) and that this obligation is secured by an interest in the property. The interest in the property shall consist of either a right of co-ownership or a lien or mortgage against the property and may be subordinate to other interests in the property.

(b) For purposes of this subdivision, "property" means property the construction, acquisition, or improvement of which is financed in whole or part with the proceeds of a loan upon which the interest payments are reduced under an interest reduction program.

(c) The amount required to be paid to the authority under paragraph (a) shall equal at least:

(1) the sale price of the property,

(2) less the downpayment, any payments of principal, other payments made to construct, acquire, or improve the property and any outstanding liens or mortgages securing loans, advances, or goods and services provided for the construction, acquisition, or improvement of the property,

(3) less the amount, if any, which the authority determines should be allowed for the developer or other benefited property owner as a return on the developer's or other benefited property owner's investment in the property,

(4) multiplied by a fraction, the numerator of which is the interest reduction payments made by the authority and the denominator of which is the total of the downpayment, all principal and interest payments including any portion paid by the authority, and other payments made to construct, acquire, or improve the property. In the case of a transfer, other than an arm's-length sale, an appraisal shall be substituted for the sale price.

(d) If the interest reduction payments are made for a bond issue, or other obligation, the proceeds of which are lent to five or more purchasers of separate housing units, the fraction under paragraph (c), clause (4), may be determined on the basis of an estimate of the aggregate factors for all the borrowers of the proceeds, of the bonds or other obligations participating in the interest reduction program.

(e) The provisions of this subdivision shall not apply to interest reduction assistance provided for construction period interest for housing units which are to be sold upon completion to purchasers who intend at the time of purchase to occupy the housing units as their principal place of residence.

Subd. 10. [Repealed, 1988 c 551 s 1]

Subd. 11. **HRAs created by special law.** Except as expressly limited by the special law establishing the authority, an authority created pursuant to special law shall have the powers granted by any statute to any authority created pursuant to this chapter.

Subd. 12. **Parking facilities.** An authority may operate and maintain public parking facilities in connection with any of its projects.

Subd. 13. **Down payment assistance loans, grants; findings.** (a) An authority may develop and administer a down payment assistance loan and grant program with respect to property located within its boundaries on terms and conditions it determines.

(b) Before carrying out a down payment assistance loan and grant program, an authority must find that the program is necessary in the areas in which it is made available in furtherance of a policy of the authority to promote economic integration or to encourage owner occupancy of single family residences.

History: *1987 c 291 s 12,243; 1987 c 312 art 1 s 26 subd 2; 1987 c 386 art 6 s 3; 1988 c 580 s 3; 1988 c 702 s 3; 1989 c 277 art 2 s 60; 1989 c 328 art 3 s 5; 1990 c 532 s 6,7; 1991 c 291 art 10 s 3; 1992 c 376 art 3 s 3,4; 1993 c 320 s 2; 1993 c 375 art 14 s 3; 1996 c 399 art 2 s 6; 1997 c 231 art 2 s 42; 1999 c 243 art 5 s 38; 2002 c 390 s 6; 2003 c 50 s 1; 1Sp2003 c 4 s 1*

469.013 ACCOUNTING.

Subdivision 1. **Annual reports, duties of state auditor.** Each authority shall keep an accurate account of all its activities and of all its receipts and expenditures. The authority shall annually, in January for accounts kept on a calendar year basis, and within 30 days of the end of its fiscal year for accounts kept on a fiscal year basis, make a report on the accounts to the commissioner of employment and economic development, the state auditor, and the governing body of the city. The reports shall be in a form prescribed by the commissioner of employment and economic development. All powers conferred and duties imposed upon the state auditor with respect to state and county officers, institutions, property, and improvements shall also be exercised and performed by the state auditor with respect to authorities, except the power to prescribe the form of reports or accounts provided in sections 469.001 to 469.047. The state auditor shall make audits of the low-rent public housing funds of the authorities that are deemed to be in the public interest, and shall file a written report covering the audits with the authority, the city clerk of the municipality, and the commissioner of employment and economic development. The first report of the state auditor shall include all expenditures and activities of the local authority from the creation of the authority. Each authority shall be liable to the state and shall pay all costs and expenses of the examination, from funds available for those purposes.

Subd. 2. **Commissioner of employment and economic development; powers, duties.** The commissioner of employment and economic development may investigate the affairs of authorities and their dealings, transactions, and relationships. The commissioner may examine the properties and records of authorities and prescribe methods of accounting and the rendering of periodical reports in relation to projects undertaken by authorities. In prescribing the form of accounts the commissioner of employment and economic development shall take into consideration any requirements of the federal government under any contract with an authority. The commissioner of employment and economic development may adopt, amend, and repeal rules prescribing standards and stating principles governing the planning, construction, maintenance, and operation of projects by authorities. Compliance with sections 469.001 to 469.047 and the rules adopted by the commissioner of employment and economic development may be enforced by the commissioner by a proceeding in equity.

History: *1987 c 291 s 13; 1987 c 312 art 1 s 26 subd 2; 1Sp2003 c 4 s 1*

469.014 LIABLE IN CONTRACT OR TORT.

Subject to the provisions of chapter 466, an authority shall be liable in contract or in tort in the same manner as a private corporation. The commissioners of an authority shall not be personally liable as such on its contracts, or for torts not committed or directly authorized by them. The property or funds of an authority shall not be subject to attachment, or to levy and sale on execution, but, if an authority refuses to pay a judgment entered against it in any court of competent jurisdiction, the district court for the county in which the authority is situated may, by writ of mandamus, direct the treasurer of the authority to pay the judgment.

History: *1987 c 291 s 14; 1991 c 342 s 11*

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 $50,000 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. 1a. **Best value alternative.** As an alternative to the procurement method described in subdivision 1, the authority may issue a request for proposals and award the contract to the vendor or contractor offering the best value under a request for proposals as described in section 16C.28, subdivision 1, paragraph (a), clause (2), and paragraph (c).

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 $50,000.

Subd. 4. **Exceptions.** (a) An authority need not require competitive bidding in the following circumstances:

(1) in the case of a contract for the acquisition of a low-rent housing project:

(i) for which financial assistance is provided by the federal government;

(ii) which does not require any direct loan or grant of money from the municipality as a condition of the federal financial assistance; and

(iii) for which the contract provides for the construction of the project upon land that is either owned by the authority for redevelopment purposes or not owned by the authority at the time of the contract but the contract provides for the conveyance or lease to the authority of the project or improvements upon completion of construction;

(2) with respect to a structured parking facility:

(i) constructed in conjunction with, and directly above or below, a development; and

(ii) financed with the proceeds of tax increment or parking ramp general obligation or revenue bonds;

(3) until August 1, 2009, with respect to a facility built for the purpose of facilitating the operation of public transit or encouraging its use:

(i) constructed in conjunction with, and directly above or below, a development; and

(ii) financed with the proceeds of parking ramp general obligation or revenue bonds or with at least 60 percent of the construction cost being financed with funding provided by the federal government; and

(4) in the case of any building in which at least 75 percent of the usable square footage constitutes a housing development project if:

(i) the project is financed with the proceeds of bonds issued under section 469.034 or from nongovernmental sources;

(ii) the project is either located on land that is owned or is being acquired by the authority only for development purposes, or is not owned by the authority at the time the contract is

entered into but the contract provides for conveyance or lease to the authority of the project or improvements upon completion of construction; and

(iii) the authority finds and determines that elimination of the public bidding requirements is necessary in order for the housing development project to be economical and feasible.

(b) An authority need not require a performance bond for the following projects:

(1) a contract described in paragraph (a), clause (1);

(2) a construction change order for a housing project in which 30 percent of the construction has been completed;

(3) a construction contract for a single-family housing project in which the authority acts as the general construction contractor; or

(4) a services or materials contract for a housing project.

For purposes of this paragraph, "services or materials contract" does not include construction contracts.

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: *1987 c 291 s 15,243; 1987 c 344 s 6; 1988 c 702 s 4; 1989 c 355 s 3; 1992 c 376 art 3 s 5-7; 1992 c 545 art 2 s 5; 1993 c 320 s 3,4; 1994 c 614 s 8; 1998 c 389 art 16 s 22; 2001 c 140 s 1-4; 2004 c 278 s 8,9; 2005 c 152 art 1 s 14; 2007 c 148 art 3 s 27*

469.016 LOW-RENT HOUSING.

An authority shall not initiate any low-rent housing project, and shall not enter into any contract with respect to it, until:

(1) it has made findings, after an analysis of the local housing market, that (i) there is need for such low-rent housing which cannot be met by private enterprise, and (ii) a gap of at least 20 percent exists between the upper shelter rental limits for admission to the proposed low-rent housing and the lowest shelter rents at which private enterprise is providing through new construction and existing structures a substantial supply of decent, safe, and sanitary housing; and

(2) the governing body or bodies creating the authority in whose jurisdiction the project will be located, has by resolution affirmed those findings of the authority and approved the provision of that low-rent housing project.

Clauses (1) and (2) do not apply to any public low-rent housing projects for which financial assistance is provided by the federal government, and which does not require any direct loan or grant of money from the governing body or bodies as a condition of federal financial assistance. An authority shall not make any contract with the federal government for a public low-rent housing project unless the governing body or bodies creating the authority in whose jurisdiction the project will be located, has by resolution approved the provision of that public low-rent housing project.

History: *1987 c 291 s 16; 1990 c 532 s 8*

469.017 HOUSING DEVELOPMENT PROJECTS.

Before carrying out a housing development project an authority must find that the project is necessary to alleviate a shortage of decent, safe, and sanitary housing for persons of low or moderate income and their families as such income is determined by the authority. No housing development project involving the use of the power of eminent domain shall be carried out by an authority without the prior approval of the governing body of the municipality in which the project is located. A housing development project or any interest therein may be sold or leased to private developers before, during, or after the completion of construction of improvements thereon. The sale or lease shall be in accordance with the provisions of section 469.029, subdivisions 2, 5, and 7, except that the provisions requiring conformance to a redevelopment plan shall not be applicable. The sale or lease may be made for other than housing purposes if the authority finds that changed circumstances arising subsequent to the acquisition of the project make a sale or lease for housing purposes inappropriate. Nothing in this section shall limit the power of the authority to acquire or dispose of real property pursuant to sections 469.012, subdivision 1h, and 469.029, subdivisions 9 and 10, except that any exercise of the power of eminent domain pursuant to section 469.012, subdivision 1h, shall not be carried out by an authority without the prior approval of the governing body of the municipality in which the housing development project is located. The authority shall have the power to transfer such real property in accordance with the provisions of sections 469.012, subdivision 1h, and 469.029, subdivisions 9 and 10, before, during, or after the completion of construction, rehabilitation, or improvements thereon, except that the transfer shall be in accordance with the provisions of section 469.029, subdivisions 2, 5, and 7, except as elsewhere provided in Laws 1974, chapter 228.

History: *1987 c 291 s 17*

469.0171 HOUSING PLAN, PROGRAM, AND REVIEW.

Prior to the issuance of bonds or obligations for a housing development project proposed by an authority under section 469.017, the authority shall prepare and submit for review a program

as defined in section 462C.02, subdivision 3, in the manner provided in sections 462C.04, subdivision 2, and 462C.05, subdivision 5, for the making or purchasing of loans by cities.

The authority shall prepare and submit the report required under section 462C.04, subdivision 3.

History: *1988 c 542 s 7; 1995 c 224 s 116; 1997 c 219 s 8*

469.018 RENTALS.

Subdivision 1. **Basis of charge.** Each authority shall manage and operate its housing projects in an efficient manner to enable it to fix the rentals or payments for dwelling accommodations at rates consistent with its providing decent, safe, and sanitary dwelling accommodations for persons of low income. No authority shall construct or operate any housing project for profit, or as a source of revenue to the municipality. An authority shall fix the rentals or payments for dwellings in its projects at no higher rates than it shall find to be necessary in order to produce revenues which, together with all other available moneys, revenues, income, and receipts of the authority, will be sufficient (1) to pay, as they become due, the principal and interest on the bonds of the authority; (2) to create and maintain reserves required to assure the payment of principal and interest as they become due on its bonds; (3) to meet the cost of, and to provide for, maintaining and operating the projects, including necessary reserves and the cost of any insurance, and the administrative expenses of the authority; and (4) to make payments in lieu of taxes that it determines are consistent with the maintenance of the low-rent character of projects.

Subd. 2. **Realtors.** With respect to the management and operation of a housing project the authority may employ reliable real estate operators or firms or brokers or the municipality to perform those services for it. No such real estate operators or firms or brokers or the municipality shall have any authority in tenant selection or the fixing of rentals. Each authority employing real estate operators or firms or brokers or the municipality shall require the execution of a contract of employment stating the terms and conditions under which the services are to be performed, which shall be subject to the approval of the commissioner of employment and economic development.

Subd. 3. **CIC lease restrictions.** Notwithstanding any other law to the contrary, no declaration governing a common interest community, as defined in chapter 515B, whether or not the common interest community is subject to chapter 515B, and no bylaw, regulation, rule, or policy adopted by or on behalf of the unit owners' association for a common interest community, may prohibit or limit an authority from leasing a residential unit owned by it to eligible persons of low or moderate income and their families under applicable state or federal legislation. Nothing in this subdivision shall prohibit common interest community declarations, bylaws, regulations, rules, or policies from otherwise regulating the use of a unit owned by an authority or the conduct of unit occupants, provided the regulations apply to all units in the common interest community;

nor from enforcing a prohibition against leasing residential units that was effective before the authority owned the unit. This subdivision applies to all common interest community units owned by an authority for which title was acquired by the authority after January 1, 1999.

History: *1987 c 291 s 18; 1987 c 312 art 1 s 26 subd 2; 1Sp2003 c 4 s 1; 2004 c 263 s 21*

469.019 RENTALS, TENANT ADMISSIONS.

In the operation or management of housing projects an authority shall observe the following duties with respect to rentals and tenant admissions.

(a) It may rent or lease the dwelling accommodations only to persons of low income and at rentals within their ability to pay.

(b) It may rent or lease to a tenant dwelling accommodations consisting of the number of rooms it deems necessary to provide safe and sanitary accommodations to the proposed occupants, without overcrowding, but no greater number.

(c) It shall not approve a family as tenant in a housing project if the family has an aggregate annual net income from all sources at the time of admission which exceeds five times the annual rental for the accommodations to be provided the family. As used in this section, aggregate annual net income shall not include:

(1) the income of a family member, other than the head of the household or spouse, who is under 18 years of age or who is a full-time student;

(2) the first $300 of the income of a secondary wage earner who is the spouse of the head of the household;

(3) $300 for each member of the family residing in the household, other than the head of the household or spouse, who is under 18 years of age or who is 18 years of age or older and is disabled or a full-time student;

(4) nonrecurring income as defined by the authority;

(5) five percent of the family's gross income from all sources or, in the case of an elderly family, ten percent of the family's gross income;

(6) amounts paid or incurred for which the family is liable for extraordinary medical expenses or other expenses resulting from unusual circumstances as determined by the authority; and

(7) an amount equal to the money received by the head of the household or spouse from or under the direction of any public or private nonprofit child-placing agency for the care and maintenance of one or more persons who are under 18 years of age and were placed in the family by that agency.

(d) In computing the rental for the purpose of this section, there shall be included in the rental the average annual cost, as determined by the authority, to occupants of heat, water, electricity, gas, cooking fuel, and other necessary services or facilities, whether or not the charge for the services and facilities is included in the rental. An authority may adopt as its maximum net income for admission of families any maximum which is less than either: (1) the maximum net family income computed under this section; or (2) the maximum net family income determined pursuant to section 469.022; or (3) the maximum net family income determined pursuant to the Housing and Community Development Act of 1974.

History: *1987 c 291 s 19; 2005 c 56 s 1*

469.020 DISCRIMINATION PROHIBITED, DISPLACED FAMILIES.

There shall be no discrimination in the selection of tenants because of race or religious, political, or other affiliations, but, if the number of qualified applicants for dwelling accommodations exceeds the dwelling units available, preference shall be given to inhabitants of the municipality in which the project is located, and to the families who occupied the dwellings eliminated by demolition, condemnation, and effective closing as part of the project, as far as is reasonably practicable without discrimination against families living in other substandard areas within the same municipality.

History: *1987 c 291 s 20*

469.021 PREFERENCES.

As between applicants equally in need and eligible for occupancy of a dwelling and at the rent involved, preference shall be given to disabled veterans, persons with disabilities, and families of service persons who died in service and to families of veterans. In admitting families of low income to dwelling accommodations in any housing project an authority shall, as far as is reasonably practicable, give consideration to applications from families receiving assistance under chapter 256J, and to resident families to whom public assistance or supplemental security income for the aged, blind, and disabled is payable, when those families are otherwise eligible.

History: *1987 c 291 s 21; 2007 c 135 art 8 s 8*

469.022 ESTABLISHMENT OF INCOME RESTRICTION.

The dwellings in public low-rent housing shall be available solely for families whose net family income does not exceed the maximum net family income falling within the lowest 20 percent by number of all family incomes in the area of operation as such maximum net family income has been determined by the authority. Each year, this restriction shall be reexamined by the commissioner of employment and economic development, and a public hearing shall be held by the commissioner of employment and economic development to determine whether

administrative or interpretive difficulties or unsatisfactory progress in the provision of low-rent housing or redevelopment require a modification of that income restriction. Upon the conclusion of that hearing, the commissioner shall modify the restriction set out in this section to the extent required to make satisfactory progress in the provision of low-rent housing or redevelopment.

History: *1987 c 291 s 22; 1987 c 312 art 1 s 26 subd 2; 1Sp2003 c 4 s 1*

469.023 PERIODIC INVESTIGATION OF TENANT.

An authority shall make periodic investigations of each family admitted to a low-rent housing project and, on the basis of the investigations, shall determine whether that family at the time of its admission (1) lived in an unsafe, unsanitary, or overcrowded dwelling or had been displaced by a project or by off-site elimination in compliance with the equivalent elimination requirement hereof, or actually was without housing, or was about to be without housing as a result of a court order of eviction, due to causes other than the fault of the tenant, and (2) had a net family income not exceeding the income limits for admission of families of low income to the housing; provided that the requirement in clause (1) shall not be applicable in the case of the family of any veteran who has been discharged, other than dishonorably, from, or the family of any service person who died in, the armed forces of the United States, if that family had made application for admission to the project within any time limit specified by federal law applicable to federal financial assistance for the project. If it is found upon investigation that the net income of any families have increased beyond the maximum income limits fixed pursuant to section 469.022 for continued occupancy in the housing, those families shall be required to move from the project.

History: *1987 c 291 s 23*

469.024 POWER OF AUTHORITY.

Nothing contained in sections 469.016 to 469.024 shall be construed as limiting the power of an authority (1) with respect to a housing project to vest in an obligee the right, in the event of a default by the authority, to take possession or cause the appointment of a receiver of the project, free from the restrictions imposed by this section or section 469.023; or (2) with respect to a redevelopment project, in the event of a default by a purchaser or lessee of land, to acquire property and operate it free from such restrictions.

History: *1987 c 291 s 24*

469.025 DEMOLITION OF UNSAFE OR UNSANITARY BUILDINGS.

No project for low-rent housing or the clearance of a blighted area involving the construction of new dwellings shall be undertaken by a housing authority unless, subsequent to the initiation of the project, there has been or will be elimination by demolition, condemnation, and effective closing, or compulsory repair, of unsafe or unsanitary buildings situated in the area

of operation substantially equal in number to the number of dwelling units provided by the project. The elimination may, upon approval by the commissioner of employment and economic development, be deferred for a period determined by the commissioner if the shortage of decent, safe, or sanitary housing available to families of low income is so acute as to force dangerous overcrowding of those families.

History: *1987 c 291 s 25; 1987 c 312 art 1 s 26 subd 2; 1Sp2003 c 4 s 1*

469.026 EXISTING BUILDINGS; ACQUISITION, REPAIR.

An authority may purchase, lease, or otherwise acquire existing buildings for rehabilitation into low-rent housing. The provisions of sections 469.001 to 469.047 relating to other low-rent housing projects shall apply to the projects. Before proceeding with the project, an authority shall make an analysis demonstrating:

(1) the buildings to be acquired or leased shall be in such condition that it is feasible to remodel, repair, or reconstruct them and that the buildings, when rehabilitated, will provide decent, safe, and sanitary housing;

(2) the rehabilitation of the buildings comprising the project will prevent or arrest the spread of blight so as to protect the neighborhood in which the buildings are located; and

(3) the rehabilitated buildings will provide low-rent housing, will help to conserve the existing housing supply, and will otherwise accomplish the purposes of sections 469.001 to 469.047.

Nothing in this section shall limit the powers of an authority with respect to a redevelopment project.

History: *1987 c 291 s 26*

469.027 REDEVELOPMENT PLAN.

Any person may submit a redevelopment plan to an authority, or an authority may consider a redevelopment plan on its own initiative. An authority shall immediately transmit the plan to the planning agency of the city in which the area to be redeveloped is situated, for its study, or, if no planning agency exists, the plan shall be submitted to an agency indicated by the governing body of the city. An authority shall request the written opinion of the planning or other agency on all redevelopment plans submitted to it prior to approving those redevelopment plans, and the planning or other agency shall submit its written opinion within 30 days.

History: *1987 c 291 s 27*

469.028 MUNICIPAL GOVERNING BODY.

Subdivision 1. **Findings, notice, determination.** When an authority determines that

a redevelopment project should be undertaken, it shall apply to the governing body of the city in which the project is located for approval. The application shall be accompanied by a redevelopment plan, a statement of the method proposed for financing the project, and the written opinion of the planning agency, if there is one. Before approving any redevelopment plan, the governing body shall hold a public hearing thereon after published notice in a newspaper of general circulation in the municipality at least once not less than ten days nor more than 30 days prior to the date of the hearing.

Subd. 2. **Findings, notice, determination; governing body.** The authority shall not proceed with the project unless the governing body finds by resolution that:

(1) the land in the project area would not be made available for redevelopment without the financial aid to be sought;

(2) the redevelopment plans for the redevelopment areas in the locality will afford maximum opportunity, consistent with the needs of the locality as a whole, for the redevelopment of the areas by private enterprise; and

(3) the redevelopment plan conforms to a general plan for the development of the locality as a whole.

The governing body shall within 30 days after submission of the application, or resubmission as hereinafter provided, give written notice to the authority of its decision with respect to the project. When an authority has determined the location of a proposed redevelopment project, it may, without awaiting the approval of the governing body, proceed, by option or otherwise, to obtain control of the real property within the area, but it shall not, without the prior approval by the governing body of the redevelopment plan, unconditionally obligate itself to purchase any such property. A plan which has not been approved by the governing body when submitted to it may be again submitted to it with the modifications necessary to meet its objections. Once approved, the determination of the authority to undertake the project and the resolution of the governing body shall be conclusive, in any condemnation proceeding, of the public need for the project.

Subd. 3. **Acquisition of open land.** A redevelopment project may include any work or undertaking to acquire open or undeveloped land determined to be blighted by virtue of the following conditions:

(1) unusual and difficult physical characteristics of the ground;

(2) the existence of faulty planning characterized by the subdivision or sale of lots laid out in disregard of the contours or of irregular form and shape or of inadequate size; or

(3) a combination of these or other conditions which have prevented normal development of the land by private enterprise and have resulted in a stagnant and unproductive condition of

land potentially useful and valuable for contributing to the public health, safety, and welfare. Acquisition of such land shall be a redevelopment project only if a redevelopment plan has been adopted which provides for the elimination of these conditions, thereby making the land useful and valuable for contributing to the public health, safety, and welfare and the acquisition of the land is necessary to carry out the redevelopment plan.

Subd. 4. **Acquisition of unused or inappropriately used land.** A redevelopment project may include any work or undertaking to acquire land or space that is vacant, unused, underused or inappropriately used, including infrequently used rail yards and rail storage facilities, and excessive or vacated railroad rights-of-way; air rights over streets, expressways, railroads, waterways, and similar locations; land which is occupied by functionally obsolete nonresidential buildings, or is used for low utility purposes, or is covered by shallow water, or is subject to periodic flooding, or consists of unused or underused slips or dock areas or other waterfront property. This subdivision applies only to land or space that the authority determines may be developed at a cost reasonably related to the public purpose to be served without major residential clearance activities, and with full consideration of the preservation of beneficial aspects of the urban and natural environment, for uses that are consistent with emphasis on housing for low and moderate income families. These uses include the provision of schools, hospitals, parks and other essential public facilities and, where appropriate, all uses associated with new community development programs as defined in the United States Urban Growth and New Community Development Act of 1970, as amended, or similar large scale undertakings related to inner city needs, including concentrated sources of employment.

Subd. 5. **Early acquisition.** When an authority has determined the location of a proposed redevelopment project, but prior to the approval of the redevelopment plan and project as provided in subdivision 2, the authority may acquire individual tracts of real property with the approval of the governing body as to each separate tract. Before approving early acquisition, the governing body shall hold a public hearing on the proposed acquisition activities after published notice in a newspaper of general circulation in the municipality at least once not less than ten days nor more than 30 days prior to the date of the hearing.

The authority shall not proceed with the acquisition unless the governing body finds by resolution that (1) the proposed acquisition is necessary to carry out public improvements in the area, or that the acquisition will contribute to the elimination of blight or deterioration within the area or that the acquisition is necessary to relieve hardship; and (2) there is a feasible method for the relocation of families and individuals to be displaced by the proposed acquisition.

The governing body may, in approving early acquisition, agree to assume the responsibility for any loss that may arise as a result of the acquisition of land and related activities, including any costs of demolition, removal, and relocation, in the event that the property so acquired is not

used for urban renewal purposes because the urban renewal plan is not approved, or is amended to omit the acquired property or is abandoned for any reason. Nothing in this subdivision shall be construed to waive the requirement for public hearing upon the redevelopment plan for the redevelopment project.

History: *1987 c 291 s 28*

469.029 DISPOSAL OF PROPERTY.

Subdivision 1. **Sale, lease, or development.** In accordance with a redevelopment plan, an authority may make any of its land in a redevelopment project available for use by private individuals, firms, corporations, partnerships, insurance companies, or other private interests, or by public agencies, by sale, lease, or otherwise, or the authority itself may retain property for redevelopment by it. The land shall be made available at a price that shall, except as provided for in subdivisions 9 and 10, take into consideration the estimated fair market or rental value of the cleared land as determined pursuant to section 469.032, for proposed uses in accordance with the redevelopment plan.

Subd. 2. **Notice; public hearing; determination; terms and conditions.** Any such lease or sale may be made without public bidding but only after a public hearing, after published notice, by the authority at least once not less than ten days nor more than 30 days prior to the date of the hearing upon the proposed lease or sale and the provisions thereof. The terms of any such lease shall be fixed by the authority, and the instrument of lease may provide for renewals upon reappraisals and with rentals and other provisions adjusted to the reappraisals. Every such lease or sale shall provide that the lessee or purchaser shall carry out or cause to be carried out the approved project area redevelopment plan or approved modifications thereof and that no use shall be made of any land or real property included in the lease or sale nor any building or structure erected thereon which does not conform to the approved plan or approved modifications thereof. In the instrument of lease or sale the authority may include other terms, conditions, and provisions in the judgment of the authority will provide reasonable assurance of the priority of the obligations of the lease or sale and of conformance to the plan over any other obligations of the lessee or purchaser, and also assurance of the financial and legal ability of the lessee or purchaser to carry out and conform to the plan and the terms and conditions of the lease or sale, to begin the building of any improvements within a period of time which the authority fixes as reasonable. The instrument shall also include the terms, conditions, and specifications concerning buildings, improvements, subleases, or tenancies, maintenance and management, and any other related matters the authority may reasonably impose or approve, including provisions whereby the obligations to carry out and conform to the project area plan shall run with the land. If maximum rentals to be charged to tenants of housing are specified, provision may be made for periodic reconsideration of the rental bases, with a view to proposing modification of the project area plan with respect to the rentals.

Subd. 3. **Property devoted to public uses; transfer.** After the property in a project area has been assembled by an authority, the authority may transfer by deed to local public bodies those pieces of property which, in accordance with the redevelopment plan, are to be devoted to public uses, other than public housing or redevelopment purposes. Except for property transferred by dedication, gift, or exchange, the transferee body shall pay to the authority the sum agreed upon, and, in the absence of agreement, the sum determined by arbitration. The authority shall reimburse the redevelopment project fund the fair use value of any property in a redevelopment project transferred to a public low-rent housing project.

Subd. 4. **Disposition in parts.** The authority may lease or sell parts of a project area separately to any persons. Any such sale or lease of a part or parts of a project area shall be subject to the provisions of this section, excluding property required for public low-rent housing projects.

Subd. 5. **Limitation upon disposal by purchaser.** Until the authority certifies that all building constructions and other physical improvements specified to be done and made by the purchaser of the area have been completed, the purchaser shall not convey the area, or any part thereof, without the consent of the authority. Consent shall not be given unless the grantee or mortgagee of the purchaser is obligated by written instrument to the authority to carry out that portion of the redevelopment plan which falls within the boundaries of the conveyed property, and also that the grantee, the grantee's heirs, representatives, successors, and assigns, shall not convey, lease, or let the conveyed property or any part thereof, or erect or use any building or structure erected thereon, except in conformance with the approved project area redevelopment plan or approved modifications thereof.

Subd. 6. **Modification of plan.** A redevelopment plan may be modified at any time. The modification must be adopted by the authority and the governing body of the political subdivision in which the project is located, upon the notice and after the public hearing required for the original adoption of the redevelopment plan. If the authority determines the necessity of changes in an approved redevelopment plan or approved modification thereof, which changes do not alter or affect the exterior boundaries, and do not substantially alter or affect the general land uses established in the plan, the changes shall not constitute a modification of the redevelopment plan nor require approval by the governing body of the political subdivision in which the project is located.

Subd. 7. **Purchaser or lessee to furnish performance bond.** As security for its fulfillment of the agreement with the authority, a purchaser or lessee shall furnish a performance bond, with the surety and in the form and amount the authority may approve, or make any other guaranty the authority deems necessary in the public interest. If the authority finds that the redevelopment is not being carried out or maintained in accordance with the contract terms and conditions, or there is a failure to prosecute the work with diligence, or to assume its completion on time, it shall

notify the purchaser or lessee and the surety in writing of the noncompliance. Unless the purchaser or lessee complies with the terms of agreement within 20 days from the date of the notice, the authority may take over the work and may cause the work to be done, and the cost of the work shall be paid by the surety. The authority may take possession of and utilize in completion of the work the materials, appliances, and plant as may be on the site of the work and necessary for it.

Subd. 8. **Discrimination forbidden.** There shall be no discrimination in the use of any land in a redevelopment project because of race or religious, political, or other affiliations.

Subd. 9. **Sale, grant or development.** With or without accordance to a redevelopment plan, an authority may make any of its lands in a project that are vacant, open and undeveloped or lands that contain vacated residential dwelling structures that are substandard as that term is defined in section 469.012, subdivision 1h, available for use by sale, lease, grant, transfer, conveyance, or otherwise to persons or families of low and moderate income. The property shall be made available at a price which may take into consideration the estimated fair market value of the real estate, as determined pursuant to section 469.032, if the low- or moderate-income persons or families have the financial ability or building trade skills, as determined by the authority, to build on the vacant, open and undeveloped land or to repair, improve, or rehabilitate the residential dwelling structures, so as to conform with the applicable state, county, or city, health, housing, building, fire prevention, and housing maintenance codes within a reasonable period of time as determined by the authority. The authority may require an agreement from those persons or families of low or moderate income to build on the lands or to repair, improve, or rehabilitate the residential dwelling structures within a reasonable period of time so as to conform to the codes as a condition to final legal title to the lands and the residential dwelling units. Nothing in Laws 1974, chapter 228, shall prohibit an authority from making rehabilitation loans and grants, pursuant to section 469.012, subdivision 6, or procuring other authorized financial assistance for persons or families of low and moderate income who acquire real property pursuant to this section, in furtherance of the objectives of this section.

Subd. 10. **Excess land.** On or before December 31 each year, each authority shall make a survey of all lands held, owned, or controlled by it to determine what land, including air rights, is in excess of its foreseeable needs. A description of each parcel found to be in excess of foreseeable needs shall be made a matter of public record. Any low- or moderate-income resident or nonprofit housing corporation shall upon request be provided with a list of the parcels without charge. With or without accordance to a redevelopment plan, an authority may make the excess lands available for use as a housing or housing development project by a nonprofit housing corporation by sale, lease, grant, transfer, conveyance, or otherwise. The price may take into consideration the estimated fair market or rental value of the real property, as determined pursuant to section 469.032 and upon terms and conditions, notwithstanding any other provisions of law

to the contrary, that the authority deems to be best suited to the development of the parcel for housing available to persons and families of low and moderate income.

History: *1987 c 291 s 29*

469.030 TEMPORARY RELOCATION OF DISPLACED FAMILIES.

Prior to its approval of any redevelopment plan, the authority shall be satisfied that there is a feasible method for the temporary relocation of families to be displaced from the project area, and that there are available or will be provided, in the project area or in other areas not less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the families displaced from the project area, decent, safe, and sanitary dwellings equal in number to the number of the displaced families.

History: *1987 c 291 s 30*

469.0305 REPORT ON LOSS OF HOUSING.

Subdivision 1. **Effects of welfare reform.** A public agency administering a public housing program or a rent subsidy program shall report to the commissioner of the Housing Finance Agency by February 1, each year, beginning in 1998, the reduction in the number of units or Section 8 certificates or vouchers during the year and an assessment of the reasons for the reduction, including whether it is due to the state's welfare reform initiatives.

Subd. 2. **Reduction in low-income housing units.** A public agency that acquires and demolishes housing occupied by persons whose incomes are less than 50 percent of the area median income shall report the number of units demolished to the commissioner of the Housing Finance Agency. The report must be submitted to the commissioner of the Housing Finance Agency no later than March 15 of the following year.

History: *1997 c 200 art 4 s 22*

469.031 PROVISIONAL ACCEPTANCE BY AUTHORITY OF FUND, PROPERTY.

As an aid in the acquisition of the real property of a project area, the authority may accept a fund, or, at an agreed value, any parcel or property within the area, from any partnership or individual. Acceptance shall be subject to a provision that, if the supplier of the fund or the conveyor of the property purchases the project area or any part thereof, the fund or the agreed value of the property shall be credited on the purchase price of the area or part thereof, and, if there is an excess above the cost of acquisition of the area, the excess shall be returned, and that, if the supplier or conveyor does not purchase the area or any part thereof, the amount of the fund or the agreed value of the property shall be paid to the supplier or conveyor.

History: *1987 c 291 s 31*

469.032 USE VALUE.

Subdivision 1. **Determination.** Prior to lease or sale of land in a project area, the authority shall, as an aid in determining the rentals and other terms upon which it will lease or the price at which it will sell the area or parts of it, place an estimated fair market or rental value upon each piece or tract of land within the area which, in accordance with the plan, is to be used for private uses or for low-rent housing. The value shall be based on the planned use. For the purpose of this valuation, the authority may cause a fair market appraisal to be made by two or more land value experts employed by it for the purpose or it may use the land appraisal services of the municipality. Nothing contained in this section shall be construed as requiring the authority to base its rentals or selling prices upon the appraisal. The authority may redetermine its estimated values both prior to and after receipt by it of any proposal or proposals to purchase or lease property.

Subd. 2. **Use value.** The aggregate use value placed for purposes of lease or sale upon all land within a project area leased or sold by an authority pursuant to sections 469.001 to 469.047 shall exclude the cost of old buildings destroyed and the demolition and clearance thereof.

History: *1987 c 291 s 32*

469.033 PUBLIC REDEVELOPMENT COST; PROCEEDS; FINANCING.

Subdivision 1. **Financing plans authorized.** The entire cost of a project as defined in section 469.002, subdivision 12, including administrative expense of the authority allocable to the project and debt charges and all other costs authorized to be incurred by the authority in sections 469.001 to 469.047, shall be known as the public redevelopment cost. The proceeds from the sale or lease of property in a project shall be known as the capital proceeds. The capital proceeds from land sold may pay back only a portion of the public redevelopment cost. An authority may finance the projects in any one or by any combination of the following methods.

Subd. 2. **Federal grants.** The authority may accept grants or other financial assistance from the federal government as provided in sections 469.001 to 469.047. Before it uses other financial methods authorized by this section, the authority shall use all federal funds for which the project qualifies.

Subd. 3. **Bond issue.** An authority may issue its bonds or other obligations as provided in sections 469.001 to 469.047.

Subd. 4. **Revenue pool; use.** The authority may provide that all revenues received from its redevelopment areas be placed in a pool for the payment of interest and principal on all bonds issued for any redevelopment project, and the revenue from all such areas shall be paid into the pool until all outstanding bonds have been fully paid.

Subd. 5. **Special benefit tax fund.** If the authority issues bonds to finance a redevelopment

project, it may, with the consent of the governing body obtained at the time of the approval of the redevelopment plan as required in section 469.028, notify the county treasurer to set aside in a special fund, for the retirement of the bonds and interest on them, all or part of the real estate tax revenues derived from the real property in the redevelopment area which is in excess of the tax revenue derived therefrom in the tax year immediately preceding the acquisition of the property by the authority. The county treasurer shall do so. This setting aside of funds shall continue until the bonds have been retired. This subdivision applies only to property that the governing body has by resolution designated for inclusion in a project prior to August 1, 1979.

Subd. 6. **Operation area as taxing district, special tax.** All of the territory included within the area of operation of any authority shall constitute a taxing district for the purpose of levying and collecting special benefit taxes as provided in this subdivision. All of the taxable property, both real and personal, within that taxing district shall be deemed to be benefited by projects to the extent of the special taxes levied under this subdivision. Subject to the consent by resolution of the governing body of the city in and for which it was created, an authority may levy a tax upon all taxable property within that taxing district. The tax shall be extended, spread, and included with and as a part of the general taxes for state, county, and municipal purposes by the county auditor, to be collected and enforced therewith, together with the penalty, interest, and costs. As the tax, including any penalties, interest, and costs, is collected by the county treasurer it shall be accumulated and kept in a separate fund to be known as the "housing and redevelopment project fund." The money in the fund shall be turned over to the authority at the same time and in the same manner that the tax collections for the city are turned over to the city, and shall be expended only for the purposes of sections 469.001 to 469.047. It shall be paid out upon vouchers signed by the chair of the authority or an authorized representative. The amount of the levy shall be an amount approved by the governing body of the city, but shall not exceed 0.0185 percent of taxable market value. The authority shall each year formulate and file a budget in accordance with the budget procedure of the city in the same manner as required of executive departments of the city or, if no budgets are required to be filed, by August 1. The amount of the tax levy for the following year shall be based on that budget.

Subd. 7. **Inactive authorities; transfer of funds; dissolution.** The authority may transfer to the city in and for which it was created all property, assets, cash or other funds held or used by the authority which were derived from the special benefit tax for redevelopment levied pursuant to subdivision 6 prior to March 6, 1953, whenever collected. Upon any such transfer, an authority shall not thereafter levy the tax or exercise the redevelopment powers of sections 469.001 to 469.047. All cash or other funds transferred to the city shall be used exclusively for permanent improvements in the city or the retirement of debts or bonds incurred for permanent improvements in the city. An authority which transfers its property, assets, cash, or other funds derived from the special benefit tax for redevelopment and which has not entered into a contract

with the federal government with respect to any low-rent public housing project prior to March 6, 1953, shall be dissolved as herein provided. After a public hearing after ten days' published notice thereof in a newspaper of general circulation in the city, the governing body of a city in and for which an authority has been created may dissolve the authority if the authority has not entered into any contract with the federal government or any agency or instrumentality thereof for a loan or a grant with respect to any urban redevelopment or low-rent public housing project. The resolution or ordinance dissolving the authority shall be published in the same manner in which ordinances are published in the city and the authority shall be dissolved when the resolution or ordinance becomes finally effective. The clerk of the governing body of the municipality shall furnish to the commissioner of employment and economic development a certified copy of the resolution or ordinance of the governing body dissolving the authority. All property, records, assets, cash, or other funds held or used by an authority shall be transferred to and become the property of the municipality and cash or other funds shall be used as herein provided. Upon dissolution of an authority, all rights of an authority against any person, firm, or corporation shall accrue to and be enforced by the municipality.

History: *1987 c 291 s 33; 1987 c 312 art 1 s 26 subd 2; 1988 c 719 art 5 s 84; 1989 c 209 art 2 s 1; 1989 c 277 art 4 s 61; 1Sp1989 c 1 art 5 s 35; art 9 s 63; 1993 c 320 s 5; 1994 c 416 art 1 s 47; 1994 c 614 s 9; 1997 c 7 art 1 s 142; 1997 c 231 art 2 s 43; 1Sp2003 c 4 s 1; 1Sp2005 c 3 art 1 s 28; 2008 c 366 art 5 s 11*

469.034 BOND ISSUE FOR CORPORATE PURPOSES.

Subdivision 1. **Authority and revenue obligations.** An authority may issue bonds for any of its corporate purposes. The bonds may be the type the authority determines, including bonds on which the principal and interest are payable exclusively from the income and revenues of the project financed with the proceeds of the bonds, or exclusively from the income and revenues of certain designated projects, whether or not they are financed in whole or in part with the proceeds of the bonds. The bonds may be additionally secured by (1) a pledge of any grant or contributions from the federal government or other source, (2) a pledge of any income or revenues of the authority from the project for which the proceeds of the bonds are to be used, or (3) a mortgage of any project or other property of the authority.

Subd. 2. **General obligation revenue bonds.** (a) An authority may pledge the general obligation of the general jurisdiction governmental unit as additional security for bonds payable from income or revenues of the project or the authority. The authority must find that the pledged revenues will equal or exceed 110 percent of the principal and interest due on the bonds for each year. The proceeds of the bonds must be used for a qualified housing development project or projects. The obligations must be issued and sold in the manner and following the procedures provided by chapter 475, except the obligations are not subject to approval by the electors, and

the maturities may extend to not more than 35 years for obligations sold to finance housing for the elderly and 40 years for other obligations issued under this subdivision. The authority is the municipality for purposes of chapter 475.

(b) The principal amount of the issue must be approved by the governing body of the general jurisdiction governmental unit whose general obligation is pledged. Public hearings must be held on issuance of the obligations by both the authority and the general jurisdiction governmental unit. The hearings must be held at least 15 days, but not more than 120 days, before the sale of the obligations.

(c) The maximum amount of general obligation bonds that may be issued and outstanding under this section equals the greater of (1) one-half of one percent of the taxable market value of the general jurisdiction governmental unit whose general obligation is pledged, or (2) $3,000,000. In the case of county or multicounty general obligation bonds, the outstanding general obligation bonds of all cities in the county or counties issued under this subdivision must be added in calculating the limit under clause (1).

(d) "General jurisdiction governmental unit" means the city in which the housing development project is located. In the case of a county or multicounty authority, the county or counties may act as the general jurisdiction governmental unit. In the case of a multicounty authority, the pledge of the general obligation is a pledge of a tax on the taxable property in each of the counties.

(e) "Qualified housing development project" means a housing development project providing housing either for the elderly or for individuals and families with incomes not greater than 80 percent of the median family income as estimated by the United States Department of Housing and Urban Development for the standard metropolitan statistical area or the nonmetropolitan county in which the project is located. The project must be owned for the term of the bonds either by the authority or by a limited partnership or other entity in which the authority or another entity under the sole control of the authority is the sole general partner and the partnership or other entity must receive (1) an allocation from the Department of Finance or an entitlement issuer of tax-exempt bonding authority for the project and a preliminary determination by the Minnesota Housing Finance Agency or the applicable suballocator of tax credits that the project will qualify for four percent low-income housing tax credits or (2) a reservation of nine percent low-income housing tax credits from the Minnesota Housing Finance Agency or a suballocator of tax credits for the project. A qualified housing development project may admit nonelderly individuals and families with higher incomes if:

(1) three years have passed since initial occupancy;

(2) the authority finds the project is experiencing unanticipated vacancies resulting in insufficient revenues, because of changes in population or other unforeseen circumstances that occurred after the initial finding of adequate revenues; and

(3) the authority finds a tax levy or payment from general assets of the general jurisdiction governmental unit will be necessary to pay debt service on the bonds if higher income individuals or families are not admitted.

Subd. 3. **Revenue from other projects.** No proceeds of bonds issued for or revenue authorized for or derived from any redevelopment project or area shall be used to pay the bonds or costs of, or make contributions or loans to, any public housing project. The proceeds of bonds issued for or revenues authorized for or derived from any one public housing project shall not be used to pay the bonds or costs of, or make contributions or loans to any other public housing project until the bonds and costs of the public housing project for which those bonds were issued or from which those revenues were derived or for which they were authorized shall be fully paid.

Subd. 4. **Bond terms.** Neither the commissioners of an authority nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof. Except as provided in subdivision 2, the bonds of an authority shall not be a debt of the city, the state, or any political subdivision, and neither the city nor the state or any political subdivision shall be liable on them, nor shall the bonds be payable out of any funds or properties other than those of the authority; the bonds shall state this on their face. The bonds shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction, except as provided in subdivision 2. Bonds of an authority are declared to be issued for an essential public and governmental purpose and to be public instrumentalities.

Subd. 5. **Tax exemption.** The provisions of sections 469.001 to 469.047 exempting from taxation authorities, their properties and income, shall be considered additional security for the repayment of bonds and shall constitute, by virtue of sections 469.001 to 469.047 and without the same being restated in the bonds, a contract between the (1) bondholders and each of them, including all transferees of the bonds, and (2) the respective authorities issuing the bonds and the state. An authority may by covenant confer upon the holder of the bonds the rights and remedies it deems necessary or advisable, including the right in the event of default to have a receiver appointed to take possession of and operate the project. When the obligations issued by an authority to assist in financing the development of a project have been retired and federal contributions have been discontinued, the exemptions from taxes and special assessments for that project shall terminate.

History: *1987 c 291 s 34; 1992 c 511 art 9 s 18; 1993 c 320 s 6; 2002 c 390 s 7; 2005 c 152 art 1 s 15*

469.035 MANNER OF BOND ISSUANCE; SALE.

Bonds of an authority shall be authorized by its resolution. They may be issued in one or more series and shall bear the date or dates, mature at the time or times, bear interest at the rate or rates, be in the denomination or denominations, be in the form either coupon or registered, carry the conversion or registration privileges, have the rank or priority, be executed in the manner, be payable in the medium of payment at the place or places, and be subject to the terms of redemption with or without premium, as the resolution, its trust indenture or mortgage provides. The bonds may be sold in the manner and for the price that the authority determines to be in the best interest of the authority. Notwithstanding any other law, bonds issued pursuant to sections 469.001 to 469.047 shall be fully negotiable. In any suit, action, or proceedings involving the validity or enforceability of any bonds of an authority or the security for the bonds, any bond reciting in substance that it has been issued by the authority to aid in financing a project shall be conclusively deemed to have been issued for that purpose, and the project shall be conclusively deemed to have been planned, located, and carried out in accordance with the purposes and provisions of sections 469.001 to 469.047.

In cities of the first class, the governing body of the city must approve all notes executed with the Minnesota Housing Finance Agency pursuant to this section if the interest rate on the note exceeds seven percent.

History: *1987 c 291 s 35,243; 1987 c 344 s 7; 2006 c 259 art 9 s 7*

469.036 WHEN BOND ALLOCATION ACT APPLIES.

Sections 474A.01 to 474A.21 apply to any issuance of obligations under sections 469.001 to 469.047 that are subject to limitation under a federal tax law as defined in section 474A.02, subdivision 8.

History: *1987 c 291 s 36; 2000 c 260 s 61*

469.037 ENFORCEMENT BY OBLIGEE OF CONTRACTS.

An obligee of an authority shall have the right, subject only to any contractual restrictions binding upon the obligee: (1) by mandamus, suit, action, or proceeding at law or in equity to compel the authority and its commissioners, officers, agents, or employees to perform every term, provision, and covenant contained in any contract of the authority with or for the benefit of the obligee and to require the carrying out of any or all covenants and agreements of the authority and the fulfillment of all duties imposed upon the authority by sections 469.001 to 469.047; and (2) by suit, action, or proceeding in equity to enjoin any acts or things which may be unlawful or the violation of any of the rights of the obligee of the authority.

History: *1987 c 291 s 37*

469.038 BONDS, A LEGAL INVESTMENT.

When bonds issued by an authority or bonds issued by any public housing authority or agency in the United States are secured by a pledge of annual contributions to be paid by the United States government or any agency thereof, all banks, bankers, trust companies, savings banks and institutions, investment companies, savings associations, insurance companies, insurance associations, and other persons carrying on a banking or insurance business may legally invest any sinking funds, money, or other funds belonging to them or within their control in the bonds, and the bonds shall be authorized security for all public deposits.

History: *1987 c 291 s 38; 1995 c 202 art 1 s 25*

469.039 EXEMPTION FROM PROCESS.

All real property of an authority shall be exempt from levy and sale under execution, and no execution or other judicial process shall issue against such property, nor shall any judgment against an authority be a charge or lien against its real property, but judgments may be enforced as provided in section 469.014. This section shall not apply to or limit the right of obligees to foreclose or otherwise enforce any mortgage of an authority or the right of obligees to pursue any remedies for the enforcement of any pledge or lien given by an authority on its rents, fees, or revenues, or the right of the federal government to pursue any remedies conferred upon it pursuant to the provisions of sections 469.001 to 469.047.

History: *1987 c 291 s 39*

469.040 TAX STATUS.

Subdivision 1. **Declaration, essential public and governmental purposes.** The property of an authority is public property used for essential public and governmental purposes. The property and the authority shall be exempt from all real and personal property taxes of the city, the county, the state, or any political subdivision thereof. "Taxes" does not include charges for special assessments or for utilities and special services, such as heat, water, electricity, gas, sewage disposal, or garbage removal. For purposes of this subdivision, "special services" means those physical services provided to a project for which the actual cost of the governing body providing the service can be calculated. When the obligations issued by an authority to assist in financing the development of a project have been retired and federal contributions have been discontinued, or the authority is no longer obligated by contracts with the federal government to maintain a project as a low-income housing project, whichever is later, then the exemptions from taxes for that project shall terminate.

Subd. 2. **Leased property, exception.** Notwithstanding the provisions of subdivision 1, any property other than property to be operated as a parking facility that the authority leases to private individuals or corporations for development in connection with a redevelopment project shall have

the same tax status as if the leased property were owned by the private individuals or corporations.

Subd. 3. **Statement filed with assessor; percentage tax on rentals.** Notwithstanding the provisions of subdivision 1, after a housing project or a housing development project carried on under sections 469.016 to 469.026 has become occupied, in whole or in part, an authority shall file with the assessor, on or before April 15 of each year, a statement of the aggregate shelter rentals of that project collected during the preceding calendar year. Unless a greater amount has been agreed upon between the authority and the governing body or bodies for which the authority was created, in whose jurisdiction the project is located, five percent of the aggregate shelter rentals shall be charged to the authority as a service charge for the services and facilities to be furnished with respect to that project. The service charge shall be collected from the authority in the manner provided by law for the assessment and collection of taxes. The amount so collected shall be distributed to the several taxing bodies in the same proportion as the tax rate of each bears to the total tax rate of those taxing bodies. The governing body or bodies for which the authority has been created, in whose jurisdiction the project is located, may agree with the authority for the payment of a service charge for a housing project or a housing development project in an amount greater than five percent of the aggregate annual shelter rentals of any project, upon the basis of shelter rentals or upon another basis agreed upon. The service charge may not exceed the amount which would be payable in taxes were the property not exempt. If such an agreement is made, the service charge so agreed upon shall be collected and distributed in the manner above provided. If the project has become occupied, or if the land upon which the project is to be constructed has been acquired, the agreement shall specify the location of the project for which the agreement is made. "Shelter rental" means the total rentals of a housing project exclusive of any charge for utilities and special services such as heat, water, electricity, gas, sewage disposal, or garbage removal. "Service charge" means payment in lieu of taxes. The records of each project shall be open to inspection by the proper assessing officer.

Subd. 4. **Facilities funded from multiple sources.** In the metropolitan area, as defined in section 473.121, subdivision 2, the tax treatment provided in subdivision 3 applies to that portion of any multifamily rental housing facility represented by the ratio of (1) the number of units in the facility that are subject to the requirements of Section 5 of the United States Housing Act of 1937, as the result of the implementation of a federal court order or consent decree to (2) the total number of units within the facility.

The housing and redevelopment authority for the city in which the facility is located, any public entity exercising the powers of such housing and redevelopment authority, or the county housing and redevelopment authority for the county in which the facility is located, shall annually certify to the assessor responsible for assessing the facility, at the time and in the manner required

by the assessor, the number of units in the facility that are subject to the requirements of Section 5 of the United States Housing Act of 1937.

Nothing in this subdivision shall prevent that portion of the facility not subject to this subdivision from meeting the requirements of section 273.128, and for that purpose the total number of units in the facility must be taken into account.

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: *1987 c 291 s 40; 1989 c 277 art 2 s 61; 1990 c 532 s 9,10; 1993 c 375 art 5 s 34; 1996 c 471 art 3 s 38; 1997 c 231 art 2 s 44; 2000 c 260 s 62; 2000 c 490 art 5 s 33; 1Sp2001 c 5 art 3 s 67; 2008 c 366 art 15 s 19*

469.041 STATE PUBLIC BODIES, POWERS AS TO PROJECTS.

For the purpose of aiding and cooperating in the planning, undertaking, construction, or operation of projects, any state public body may upon the terms, with or without consideration, as it may determine:

(1) dedicate, sell, convey, or lease any of its interests in any property, or grant easements, licenses, or any other rights or privileges therein to an authority. Except in cities of the first class having a population of less than 200,000, the public body may pay the bonds of or make loans or contributions for redevelopment projects, and the receipt or expenditure of any money expended hereunder by the state public body shall not be included within the definition of any limitation imposed on per capita taxing or spending in the charter of the state public body. No state public body may use any revenues or money of that state public body to pay the bonds of or make any loans or contributions to any public housing project, except to a public low-rent housing project (i) for which financial assistance is provided by the federal government which requires a municipality or other local public body to use its revenues or money for a direct loan or grant to the project as a condition for federal financial assistance and (ii) where the local financial assistance for the project is authorized by resolution of the governing body of the municipality;

(2) cause parks, playgrounds, recreational, community, education, water, sewer or drainage facilities, or any other works which it may undertake, to be furnished adjacent to or in connection with such projects;

(3) approve, through its governing body or through an agency designated by it for the purpose, redevelopment plans, plan or replan, zone or rezone its parks; in the case of a city or town, make changes in its map; the governing body of any city may waive any building code requirements in connection with the development of projects;

(4) cause services to be furnished to the authority of the character which it may otherwise furnish;

(5) enter into agreements with respect to the exercise by it of its powers relating to the repair, closing, or demolition of unsafe, unsanitary, or unfit buildings;

(6) do any and all things necessary or convenient to aid and cooperate in the planning, undertaking, construction, or operation of the projects;

(7) incur the entire expense of any public improvements made by it in exercising the powers granted in sections 469.001 to 469.047;

(8) enter into agreements with an authority respecting action to be taken by the state public body pursuant to any of the powers granted by sections 469.001 to 469.047; the agreements may extend over any period, notwithstanding any law to the contrary;

(9) furnish funds available to it from any source, including the proceeds of bonds, to an authority to pay all or any part of the cost to the authority of the activities authorized by section 469.012, subdivision 1h; and

(10) with respect to a housing development project and bonds which an authority has issued for the project, exercise the powers available to a city under section 471.191, subdivision 2, as though the project were a recreational program; provided that this power may only be exercised by a city or county in which the project is located or in accordance with a joint powers agreement with other cities or counties that have authorized the exercise of the powers for other projects as part of a common financing plan.

History: *1987 c 291 s 41; 1995 c 256 s 7*

469.042 AGREEMENT ON TAX INCREMENTS, EQUIVALENTS; BOND PLEDGE.

Subdivision 1. **General.** Any city or other state public body within the limits of which a project of an authority is wholly or partially located may agree with the authority with respect to payment by the authority of sums in lieu of taxes for any year or period of years in accordance with the provisions of section 469.040, but for no longer than the period of tax exemption provided for under that section. If property owned by the authority in a redevelopment project area

is leased or otherwise made available by the authority to a private individual, firm, or corporation which previously owned the same or other property within the area, not for development in connection with the project but for temporary use pending relocation of the former owner's residence or business, the authority may agree to payment of sums in lieu of taxes for any year or period of temporary use. The payments shall not exceed the amount of the annual rentals or other payments it receives for the use. During the use the property and the authority shall be exempt from all taxes and special assessments as provided in section 469.040, and the provisions of section 272.01, subdivision 2 and of section 273.19 shall not apply to the property or to that use. In connection with any redevelopment project, an authority may make further agreements respecting taxes as provided below.

Subd. 2. **Original net tax capacity.** Upon or after approval of a redevelopment project of any housing and redevelopment authority under section 469.028, the auditor of the county in which it is situated shall upon request of the authority certify the net tax capacity of all taxable real property within the project area as then most recently determined, which is referred to in this section as the "original net tax capacity." The auditor shall certify to the authority each year thereafter the amount by which the original net tax capacity has increased or decreased, and the proportion which any such increase bears to the total net tax capacity of the real property for that year or the proportion which any such decrease bears to the original net tax capacity. This subdivision and subdivision 3 shall not apply to any redevelopment project, certification of which is requested subsequent to August 1, 1979.

Subd. 3. **Tax increments.** In each subsequent year the county auditor shall include no more than the original net tax capacity of the real property in the net tax capacity upon which the auditor computes the local tax rates of all taxes levied by the state, the county, the city or town, the school district and every other taxing district in which the project area is situated. The auditor shall extend all local tax rates so determined against the entire net tax capacity of the real property for that year. In each year for which the net tax capacity exceeds the original net tax capacity, the county treasurer shall remit to the authority, instead of the taxing districts, that proportion of all taxes paid that year on the real property in the project area which the excess net tax capacity bears to the total net tax capacity. The amount so remitted each year is referred to in this section as the "tax increment" for that year. Tax increments received with respect to any redevelopment project shall be segregated by the authority receiving them in a special account on its official books and records until the public redevelopment cost of the project, including interest on all money borrowed therefor, has been fully paid, and the city or other public body in which the project is situated has been fully reimbursed from the tax increments or revenues of the project for any principal and interest on general obligation bonds which it has issued for the project and has paid from taxes levied on other property within its corporate limits. The payment shall be reported to the county auditor, who shall thereafter include the entire net tax capacity of

the project area in the net tax capacities upon which local tax rates are computed and extended and taxes are remitted to all taxing districts.

Subd. 4. **Tax increment financing.** The authority may pledge and appropriate any part or all of the tax increments received for any redevelopment project, and any part or all of the revenues received from lands in the project area while owned by the authority, for the payment of the principal of and interest on bonds issued in aid of the project pursuant to sections 469.034, 469.041, or 469.152 to 469.165, by the authority or by the governing body of the municipality or other state public body within whose corporate limits the project area is situated. Any such pledge for the payment of bonds issued by the governing body shall be made by written agreement executed on behalf of the authority and the governing body and filed with the county auditor. The estimated collections of the tax increments and any other revenues so pledged may be deducted from the taxes otherwise required to be levied before the issuance of the bonds under section 475.61, subdivision 1, or the collections thereof may be certified annually to reduce or cancel the initial tax levies in accordance with section 475.61, subdivision 3. When such an agreement is made and filed, the bonds may be issued by the governing body in the same manner and subject only to the same conditions as those provided in chapter 475 for bonds financing improvement costs reimbursable from special assessments. Bonds shall not be issued nor tax increments or other revenues pledged pursuant to this subdivision subsequent to August 1, 1979.

History: *1987 c 291 s 42; 1988 c 719 art 5 s 84; 1989 c 329 art 13 s 20; 1Sp1989 c 1 art 2 s 11*

469.043 PROPERTY TAX EXEMPTION.

Subdivision 1. **Application.** A developer proposing to construct a building on land located within a redevelopment project as defined in section 469.002, subdivision 14, may apply to the governing body of the city in which the land is located to obtain a partial tax exemption as provided in subdivision 2 for the approved property. The land and the building to be constructed thereon are referred to in this section as the "development." The development shall be designed and used primarily for housing purposes but portions of it may be planned and used for related business, commercial, cultural, or recreational purposes, consistent with the project plan. In applying for the tax exemption, the developer must submit a plan of the development that shall contain a general description of the area to be redeveloped and a statement of the plan for redevelopment that includes:

(1) height and bulk of structures, density of population, and percentage of land covered by structures as to their conformity with the purposes of sections 469.001 to 469.047 and with the project plan, if any; and the relationship of the density of population contemplated by the development plan, or project plan, to the distribution of the population of the city in other areas or parts thereof;

(2) provision, if any, for business or commercial facilities related to the development, relationship to existing and planned public facilities, adequacy and planned rearrangement of street facilities and provisions for light, air, cultural, and recreational facilities as to their conformity with the purposes of sections 469.001 to 469.047 and their adequacy for accommodation of the density of population contemplated by the development plan or project plan; and

(3) a development contract with the authority covering the acquisition, construction, financing, operation, and maintenance of the development. The contract shall provide that:

(i) after deducting all operating expenses, debt service payments, taxes or payments in lieu of taxes, and assessments, the developer may be paid annually out of the earnings of the project an amount equal to a specified percentage of the equity invested in the project; the percentage shall be fixed for the term of the tax exemption and shall be determined at the time of the approval of the development contract, provided that no percentage greater than eight percent shall be approved; the contract shall set out the terms of the developer's return on equity and shall define "developer's invested equity," "project earnings," "debt service," and "operating expenses"; and that any cash surplus derived from earnings from that project remaining in the treasury of the developer in excess of the amount necessary to provide such cumulative annual sums shall, upon a conveyance of the project or upon a dissolution of the company, be paid into the general fund of the city or town in which that project is located; and

(ii) a provision that, so long as this section remains applicable to a project, the real property of the project shall not be sold, transferred, or assigned except as permitted by the terms of the contract or as subsequently approved by the governing body.

Subd. 2. **Partial tax exemption.** The governing body of a city in which the proposed development is to be located, after the approval required by subdivision 3, may exempt from all local taxes up to 50 percent of the net tax capacity of the development which represents an increase over the net tax capacity of the property, including both land and improvements, acquired for the development at the time of its original acquisition for redevelopment purposes. If the governing body grants an exemption, the development shall be exempt from any or all county and school district ad valorem property taxes to the extent of and for the duration of the municipal exemption. The tax exemption shall not operate for a period of more than ten years, commencing from the date on which the exemption first becomes effective. No exemption may be granted from payment of special assessments or from the payment of inspection, supervision, and auditing fees of the authority.

The governing body may not approve a tax exemption or a development contract for a development unless it finds by resolution that (1) the land which is part of the proposed development would not, in the foreseeable future, be made available for redevelopment in the manner proposed without the partial exemption; (2) the development plan submitted by the

developer will meet a specific housing shortage identified by the city or the authority and will afford maximum opportunity, consistent with the project plan, for redevelopment of the land by private enterprise; and (3) the development plan conforms to the project plan as a whole.

Subd. 3. **Comment by county board.** Before approving a tax exemption pursuant to this section, the governing body of the city must provide an opportunity to members of the board of commissioners of the county in which the proposed development is to be located and the members of the school board of the school district which the proposed development is to be located to meet with the governing body. The governing body must present to the members of those boards its estimate of the fiscal impact of the proposed property tax exemption. The tax exemption may not be approved by the governing body until the county board of commissioners has presented its written comment on the proposal to the governing body, or 30 days have passed since the date of the transmittal by the governing body to the board of the information on fiscal impact, whichever occurs first.

Subd. 4. **Change in project prohibited.** During the period of any tax exemption granted pursuant to this section, no developer or any approved successor in interest to its title to a project or any part thereof may transfer any ownership interest in the developer entity or in the project or change any feature of a project for which approval of the city is required, without the approval of the authority and the approval by the local governing body by a majority of the number of the votes authorized to be cast by all of the members of the local governing body.

Subd. 5. **Continuation of redevelopment company provisions.** The provisions of Minnesota Statutes 1986, sections 462.591 to 462.705, shall continue in effect with respect to any project to which a tax exemption had been granted under Minnesota Statutes 1986, section 462.651, prior to August 1, 1987, whether or not the project continues to be owned by a redevelopment company, provided that if the project is not owned by a redevelopment company or governmental unit, the exemption shall not be available during any period when the earnings of the owner from the project annually paid to the owner or its shareholders for interest, amortization, and dividends exceeds eight percent of invested capital or equity in the project.

History: *1987 c 291 s 43; 1988 c 719 art 5 s 84; 1989 c 329 art 13 s 20; 1990 c 604 art 7 s 2*

469.044 BOND PENDING LITIGATION.

When any action or proceeding at law or in equity is commenced, drawing in question the right, power, or authority of a public corporation created and operating under sections 469.001 to 469.047 to do any act or to make or perform any contract or agreement or to undertake or enter upon the discharge of any obligations or commitments under those statutes, the corporation may, if it deems that the pendency of the litigation might directly or indirectly impair its borrowing power, increase the cost of its projects, or be otherwise injurious to the public interest, move the

court in which the litigation is pending to require the party who instituted the suit to give a surety bond as provided in sections 469.045 to 469.047.

History: *1987 c 291 s 44*

469.045 APPEARANCE OF PUBLIC CORPORATION; BOND.

If the public corporation is not a party to the litigation described in section 469.044 it may appear specially for the purpose of making and being heard on such a motion. Three days' notice of hearing on the motion shall be given. If the court determines that loss or damage to the public or taxpayers may result from the pendency of the action or proceeding, the court may require the party who instituted it to give a surety bond, approved by the court or judge, in a penal sum to be determined by the court to protect against loss or damage, whether or not a temporary injunction or restraining order against the corporation has been demanded or ordered. If the bond so ordered is not filed within the reasonable time allowed by the court, the action or proceeding shall be dismissed with prejudice. The bond shall be executed by the party who instituted the litigation or some person for that party as principal and conditioned for the payment to the corporation of any damage the public and taxpayers sustain by reason of the litigation, if the court finally determines that the party was not entitled to the relief sought. The amount of damages may be ascertained by a reference or otherwise as the court shall direct, in which case the sureties shall be concluded as to the amount but the damages shall be recoverable only in an action on the bond. If the party by or for whom the bond is furnished prevails in the litigation, the premium paid on the bond shall be repaid by or taxed against the corporation. During the pendency of the litigation, the court, on motion, may require additional security if found necessary, and upon failure to furnish it shall dismiss the action or proceeding with prejudice. The court may likewise, on motion, reduce the amount of a bond theretofore required or release the bond upon a showing that the amount is excessive or the bond no longer required.

History: *1987 c 291 s 45*

469.046 ADVANCE OF LITIGATION ON CALENDAR.

In any litigation described in sections 469.044 and 469.045, in which a bond has been required and given or the court has denied a motion to require a bond, the court shall advance the case on its calendar for trial at the earliest feasible date. An appeal from an appealable order made, or from a judgment entered in a district court may be taken after 30 days from entry of the judgment or after written notice of the order from the adverse party.

History: *1987 c 291 s 46*

469.047 SUIT FOR CIVIL DAMAGES.

Nothing in sections 469.044 to 469.047 shall affect the rights of any person to bring a suit for civil damages. No bond shall be required in such a suit except as otherwise provided by law.

History: *1987 c 291 s 47*

PORT AUTHORITIES

469.048 DEFINITIONS.

Subdivision 1. **Generally.** In sections 469.048 to 469.068, the terms defined in this section have the meanings given them herein, unless the context indicates a different meaning.

Subd. 2. **Port authority.** "Port authority" or "authority" means a port authority created under section 469.049 or a special law. "Port authority" includes a seaway port authority.

Subd. 3. **Seaway port authority.** A "seaway port authority" or a "seaport" is a port authority with jurisdiction over a harbor on the Great Lakes-St. Lawrence seaway.

Subd. 4. **Port district.** A "port district" is the total area of operations of a port authority.

Subd. 5. **Marginal property.** "Marginal property" means property that suffers from at least one of the conditions in this subdivision:

(1) faulty planning causing deterioration, disuse, or economic dislocation;

(2) the subdividing and sale of lots too small and irregular for good use and development;

(3) lots laid out without regard to their physical characteristics and surrounding conditions;

(4) inadequate streets, open spaces, and utilities;

(5) areas that may flood;

(6) lower values, damaged investments, and social and economic maladjustment reducing taxpaying capacity to the extent that tax receipts are too low to pay for the public services rendered;

(7) lack of use or improper use of areas, resulting in stagnant or unproductive land that could contribute to the public health, safety and welfare;

(8) lower population and reduction of proper use of areas causing more decline, and requiring more public money for new public facilities and public services elsewhere;

(9) property valuation too low to establish a local improvement district to construct and install streets, walks, sewers, water and other utilities;

(10) lands within an industrial area not used for industry but needed for industrial development of the area; and

(11) state-acquired tax-forfeited land.

Subd. 6. **City.** "City" means a home rule charter or statutory city.

History: *1987 c 291 s 49*

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.

Subd. 2. **Public body characteristics.** A port authority is a body politic and corporate with the right to sue and be sued in its own name.

A port authority is a governmental subdivision under section 282.01.

A port authority carries out an essential governmental function of the state when it exercises its power, but the authority is not immune from liability because of this.

History: *1987 c 291 s 50; 1999 c 68 s 1*

469.050 COMMISSIONERS; TERMS, VACANCIES, PAY, CONTINUITY.

Subdivision 1. **Saint Paul.** The Port Authority of Saint Paul consists of seven commissioners, two of whom must be members of the city council. The mayor shall appoint the commissioners with the consent of the city council.

Subd. 2. **Duluth.** The Seaway Port Authority of Duluth consists of seven commissioners: three appointed by the Duluth city council; two by the Saint Louis County board; and two by the governor.

A member of the Saint Louis County delegation of the state house of representatives appointed by that delegation, and a member of the Saint Louis County delegation of the state senate appointed by that delegation are advisory members of the authority.

Subd. 3. **Other port authorities.** A port authority established under law by a city council of a city other than a city of the first class may have three members appointed by the city council or seven members appointed as provided in subdivision 1, unless a different number or procedure is set out in the enabling law. A three-member authority under this subdivision may be increased to a seven-member authority appointed as provided under subdivision 1 by resolution of the city council.

Subd. 4. **Term, vacancies.** The first commissioners of a three-member commission are appointed for initial terms as follows: one for two years; one for four years; and one for six years. The first commissioners of a seven-member commission are appointed for initial terms as follows: one member for a term of one, two, three, four, and five years, respectively, and two

members for terms of six years. For subsequent terms, the term is six years. A vacancy is created in Saint Paul when a city council member of the authority ends council membership and in Duluth when a county board member of the authority ends county board membership. A vacancy on any port authority must be filled by the appointing authority for the balance of the term subject to the same approval and consent, if any, required for an appointment for a full term. For Duluth, if the governor or the county board fails to make a required appointment within 60 days after a vacancy occurs, the city council has sole power to appoint a successor.

Subd. 5. **Pay.** A commissioner, including the president, must be compensated as provided in section 15.0575, subdivision 3, for each regular or special port authority meeting attended. The advisory members of the Duluth authority from the legislature must not be paid for their service to the authority.

History: *1987 c 291 s 51; 1Sp2005 c 1 art 4 s 105*

469.051 OFFICERS; DUTIES; ORGANIZATIONAL MATTERS.

Subdivision 1. **Bylaws, rules, seal.** A port authority may adopt bylaws and rules of procedure and shall adopt an official seal.

Subd. 2. **Officers.** A port authority shall annually elect a president or chair, a vice-president or vice-chair, a treasurer, a secretary, and an assistant treasurer. A commissioner may not serve as president or chair and vice-president or vice-chair at the same time. The other offices may be held by one commissioner. The offices of secretary and assistant treasurer need not be held by a commissioner.

Subd. 3. **Duties and powers.** The officers have the usual duties and powers of their offices. They may be given other duties and powers by the port authority.

Subd. 4. **Treasurer's duties.** The treasurer:

(1) shall receive and is responsible for port authority money;

(2) is responsible for the acts of the assistant treasurer;

(3) shall disburse port authority money by check or electronic procedures;

(4) shall keep an account of the source of all receipts, and the nature, purpose and authority of all disbursements; and

(5) shall file the authority's detailed financial statement with its secretary at least once a year at times set by the authority.

Subd. 5. **Assistant treasurer.** The assistant treasurer has the powers and duties of the treasurer if the treasurer is absent or disabled.

Subd. 6. **Treasurer's bond.** The treasurer shall give bond to the state conditioned for the

faithful discharge of official duties. The bond must be approved as to form and surety by the authority and filed with its secretary. The bond must be for twice the amount of money likely to be on hand at any one time, as determined at least annually by the authority except that the bond must not exceed $300,000.

Subd. 7. **Public money.** Port authority money is public money.

Subd. 8. **Checks.** A port authority check must be signed by the treasurer and by one other officer named by the authority in a resolution. The check must state the name of the payee and the nature of the claim that the check is issued for.

Subd. 9. **Financial statement.** The port authority's detailed financial statement must show all receipts and disbursements, their nature, the money on hand, the purposes to which the money on hand is to be applied, the authority's credits and assets, and its outstanding liabilities. The authority shall examine the statement together with the treasurer's vouchers. If the authority finds the statement and vouchers correct, it shall approve them by resolution and enter the resolution in its records.

History: *1987 c 291 s 52; 1990 c 367 s 1; 2000 c 272 s 1*

469.052 DEPOSITORIES; DEFAULT; COLLATERAL.

Subdivision 1. **Named; bond.** Every two years a port authority shall name national or state banks within the state as depositories. Before acting as a depository, a named bank shall give the authority a bond approved as to form and surety by the authority. The bond must be conditioned for the safekeeping and prompt repayment of deposits. The amount of the bond must be at least equal to the maximum sum expected to be on deposit at any one time.

Subd. 2. **Default; collateral.** When port authority funds are deposited by the treasurer in a bonded depository, the treasurer and the surety on the treasurer's official bond are exempt from liability for the loss of the deposits because of the failure, bankruptcy, or any other act or default of the depository. A port authority may accept assignments of collateral from its depository to secure deposits in the same manner as assignments of collateral are permitted by law to secure deposits of the port authority's city.

History: *1987 c 291 s 53*

469.0521 LIABLE IN CONTRACT OR TORT.

Subject to the provisions of chapter 466, a port authority shall be liable in contract or in tort in the same manner as a private corporation. The commissioners of a port authority shall not be personally liable as such on its contracts, or for torts, not committed or directly authorized by them. The property or funds of a port authority shall not be subject to attachment, or to levy and sale on execution, but, if a port authority refuses to pay a judgment entered against it in any court

of competent jurisdiction, the district court for the county in which the port authority is situated may, by writ of mandamus, direct the treasurer of the authority to pay the judgment from any unencumbered funds available for that purpose.

History: *1991 c 342 s 12*

469.053 TAX LEVIES; FISCAL MATTERS.

Subdivision 1. **Obligations.** A port authority must not levy a tax or special assessment, pledge the credit of the state or the state's municipal corporations or other subdivisions, or incur an obligation enforceable on property not owned by the port authority.

Subd. 2. **Budget to city.** Annually, at a time fixed by charter, resolution, or ordinance of the city, a port authority shall send its budget to its city's council. The budget must include a detailed written estimate of the amount of money that the authority expects to need from the city to do authority business during the next fiscal year in excess of any expected receipts from other sources.

Subd. 3. **Fiscal year.** The fiscal year of a port authority must be the same as the fiscal year of its city except that the Seaway Port Authority of Duluth may, by resolution, adopt a fiscal year different from the city of Duluth's fiscal year based on the international shipping season through the St. Lawrence Seaway.

Subd. 4. **Mandatory city levy.** A city shall, at the request of the port authority, levy a tax in any year for the benefit of the port authority. The tax must not exceed 0.01813 percent of taxable market value. The amount levied must be paid by the city treasurer to the treasurer of the port authority, to be spent by the authority.

Subd. 5. **Reverse referendum.** A city may increase its levy for port authority purposes under subdivision 4 only as provided in this subdivision. Its city council must first pass a resolution stating the proposed amount of levy increase. The city must then publish the resolution together with a notice of public hearing on the resolution for two successive weeks in its official newspaper or, if none exists, in a newspaper of general circulation in the city. The hearing must be held two to four weeks after the first publication. After the hearing, the city council may decide to take no action or may adopt a resolution authorizing the proposed increase or a lesser increase. A resolution authorizing an increase must be published in the city's official newspaper or, if none exists, in a newspaper of general circulation in the city. The resolution is not effective if a petition requesting a referendum on the resolution is filed with the city clerk within 30 days of publication of the resolution. The petition must be signed by voters equaling five percent of the votes cast in the city in the last general election. The resolution is effective if approved by a majority of those voting on the question. The commissioner of revenue shall prepare a suggested form of referendum question. The referendum must be held at a special or general election before October 1 of the year for which the levy increase is proposed.

Subd. 6. **Discretionary city levy.** Upon request of a port authority, the port authority's city may levy a tax to be spent by and for its port authority. The tax must enable the port authority to carry out efficiently and in the public interest sections 469.048 to 469.068 to create and develop industrial development districts. The levy must not be more than 0.00282 percent of taxable market value. The county treasurer shall pay the proceeds of the tax to the port authority treasurer. The money may be spent by the authority in performance of its duties to create and develop industrial development districts. In spending the money the authority must judge what best serves the public interest. The levy in this subdivision is in addition to the levy in subdivision 4.

Subd. 7. **County levy.** The county board of a county having a port authority city may make an appropriation for the use of the port authority and may levy the amount of the appropriation in its general revenue levy.

Subd. 8. **St. Louis County levy.** After receiving the budget from the seaway port authority, the St. Louis County board may annually levy a tax to raise not more than $50,000 for the port authority for its operations in the next fiscal year. The levy is not subject to county levy limits.

Subd. 9. **Outside budget laws.** Money appropriated to a port authority from county taxes under this section is not subject to a budget law that applies to the county.

Subd. 10. **County payment.** The county treasurer shall pay money appropriated or levied by a county under this section when and in the manner the county board directs to the port authority to be spent by the port authority.

Subd. 11. **Prohibition on use of state funds.** State appropriations or credit of the state must not be used to pay or guarantee the payment of the debt of a port authority.

History: *1987 c 291 s 54; 1988 c 719 art 5 s 84; 1989 c 277 art 4 s 62,63; 1994 c 505 art 2 s 6*

469.054 USE OF CITY PROPERTY, SERVICES BY AUTHORITY.

Subdivision 1. **Property transfer.** The council of a port authority city may transfer or cause to be transferred to its port authority any dock, waterfront, or riparian property owned or controlled by the city, and located within the port district. The transfer must be approved by majority vote and may be with or without consideration. The city may also put the same property in the possession or control of the authority by a lease or other agreement for a limited period or in fee. Nothing in sections 469.048 to 469.068 restricts the city or any municipality from owning, developing, using, and improving port or terminal facilities.

Subd. 2. **Space, services.** A port authority city may furnish offices, warehouses, or other structures and space with or without heat, light, and other service to its port authority. The city council may also furnish stenographic, clerical, engineering, or other assistance to its port

authority.

Subd. 3. **Counsel.** The city attorney is the legal adviser to the port authority. The port authority may employ additional counsel, including a general counsel who is the chief legal advisor to the authority.

History: *1987 c 291 s 55*

469.055 POWERS AND DUTIES.

Subdivision 1. **General duties.** A port authority shall: (1) promote the general welfare of the port district, and of the port as a whole; (2) try to increase the volume of the port's commerce; (3) promote the efficient, safe, and economical handling of the commerce; and (4) provide or promote adequate docks, railroad and terminal facilities open to all on reasonable and equal terms for the handling, storage, care, and shipment of freight and passengers to, from, and through the port. A port authority may carry out its powers and duties under sections 469.048 to 469.068 at any place in the city.

Subd. 2. **Meet, plan, regulate, investigate, report.** A port authority shall:

(1) meet with a neighboring state's port authority that shares a port or harbor with it and try to agree with that authority on a comprehensive plan to regulate, develop, and improve the harbor and port;

(2) consider and adopt detailed plans for the port district consistent with the comprehensive plan in clause (1);

(3) meet from time to time with any other state's port authority to try to agree with it on legislation and rules needed to regulate and control the whole port, and recommend the adoption of the legislation and rules to the appropriate legislative and regulatory bodies;

(4) decide on and recommend legislation and rules needed to regulate and improve navigation and commerce in the port district;

(5) jointly with a similar body, or separately, recommend to the proper departments of the federal, state, or local government, or to another body, the carrying out of public improvements to benefit the port or port district;

(6) investigate the practices, rates, and conduct of privately owned or operated dock, terminal and port facilities in the port district, start proceedings, and take steps in the public interest to remedy abuses. To conduct investigations under this clause, a port authority may examine witnesses under oath and to do so have subpoenas issued out of the district court where it is located. The subpoenas may require the attendance of witnesses and the production of books and documents;

(7) a seaway port authority may also investigate stevedoring and car contractors, ship chandlers, and other organizations that a port depends on for its orderly development and operation;

(8) if necessary, bring suit for any irregularities before a proper state or federal court; and

(9) annually by April 1 give a detailed written account to its city council of its activities, its receipts and expenditures during the past calendar year, and other matters and recommendations it finds advisable to advance the commerce and welfare of the port district.

Subd. 3. **Revenue pooling.** A port authority operating under this section and also under sections 469.058 to 469.068 may deposit all its money from any source in one bank account.

Subd. 4. **Public relations.** To further an authorized purpose a port authority may (1) join an official, industrial, commercial, or trade association, or another organization concerned with the purpose, (2) have a reception of officials or others who may contribute to advance the port district and its industrial development, and (3) carry out other public relation activities to promote the port district and its industrial development. Activities under this subdivision have a public purpose.

Subd. 5. [Repealed, 2000 c 490 art 11 s 44]

Subd. 6. **Control of property.** A port authority may acquire, purchase, construct, lease, or operate bulkheads, jetties, piers, wharves, docks, landing places, warehouses, storehouses, elevators, cold storage plants, terminals, bridges, or other terminal or transportation facilities. The authority may own, hold, lease, or operate real and personal property. A port authority may lease property in or out of its port district if it believes the property is suitable and proper to use to carry out its duties and responsibilities. The facilities and the property must be needed or convenient for storing, handling, or transporting freight, passenger traffic, and establishing rail and water transfer in the port district. The authority may make rules and fix fees for the use of the facilities and for the services it renders. The authority may borrow money and secure the loans by mortgages on property held or to be held by it or by bonds.

Subd. 7. **Sale of realty.** The authority may sell, convey, and exchange any real or personal property owned or held by it in any manner and on any terms it wishes. Real property owned by the authority must not be sold, be exchanged, or have its title transferred without approval of two-thirds of the commissioners. All commissioners must have ten days' written notice of a regular or special meeting at which a sale, conveyance, exchange, or transfer of property is to be voted on. The notice must contain a complete description of the affected real estate. The resolution authorizing the real estate transaction is not effective unless a quorum is present.

Subd. 8. **Condemnation.** A port authority may acquire under eminent domain property of any kind within the port district needed by it for public use even if the property was acquired by its owner under eminent domain or even if the property is already devoted to a public use. Property

vested in or held by the state or by a city, county, school district, town, or other municipality must not be taken without the holder's consent. The port authority shall adopt a resolution describing the property and stating its intended use and the necessity of the taking.

Subd. 9. **Tunnels and bridges.** A port authority may acquire, operate, and maintain an existing toll bridge for vehicles across boundary water between a city of the first class in the state and another city either in or out of state. The authority may also construct, maintain, and operate another vehicular toll bridge with its approaches across the water at a point suitable to navigation, and may reconstruct, repair, and improve both bridges. The authority may construct, maintain, and operate a tunnel under the water and reconstruct, repair, and improve it.

A port authority may enter upon lands and acquire, condemn, occupy, possess, and use real estate and other property needed to locate, construct, operate, and maintain the bridge or tunnel and approaches to it. In doing so, the authority shall act in the same manner as a railroad corporation may for railroad purposes, or a bridge corporation may for bridge purposes in the state where the property is after making just compensation for the property as decided and paid under the laws of that state. The proceedings must be the same as for condemnation in that state.

Subd. 10. **Surveys; plans.** A port authority may survey or investigate the proper uses, operations, improvement, and development of the port district, the resulting stimulation of employment, and the benefit to the port district's city, county, and state. The port authority may also prepare a plan to construct, develop, and improve the port in the future. The plan may be merged with existing or future plans of any city in the port district. After public hearing, the port authority may adopt a plan as its official plan for the port district. Then the plan may be extended, modified, or amended only after a hearing. When the plan is adopted, all improvements made by the port authority must be consistent with it.

Subd. 11. **Terminal operators for seaway port.** A seaway port authority may operate its port terminal facilities on its premises as terminal operators. If it does so, the authority may contract with a warehouse operator performing other terminal services to act as its agent. The contract may provide: (1) that the agent will be paid on a monthly basis to operate the facilities; (2) that the agent may hire the necessary personnel to carry out the functions undertaken by the contract; (3) that employees engaged by the agent are employees of the agent and not of the port authority; and (4) that the agent is responsible to pay the employees and to comply with local ordinances and state and federal laws affecting the employees. The seaway port authority may also contract with agents to perform any function that the port authority may do. The seaway port authority may retain power to set rates for a service to be performed in a terminal facility owned, leased, or operated by it.

History: *1987 c 291 s 56*

469.056 EMPLOYEES; CONTRACTS; AUDITS.

Subdivision 1. **Employees, Social Security.** A port authority may employ or contract for the engineering, legal, technical, clerical, stenographic, accounting, and other assistance it considers advisable. An employee of a port authority under this chapter is an "employee" under section 355.01, subdivision 4, and by appropriate action of the port authority is entitled to benefits under that section.

Subd. 2. **Contracts.** A port authority may contract to erect, repair, maintain or operate docks, warehouses, terminals, elevators, or other structures on or in connection with property it owns or controls. The authority may contract or arrange with the federal government, or any of its departments, with persons, public corporations, the state, or any of its political subdivisions, commissions, or agencies, for separate or joint action, on any matter related to using the authority's powers or doing its duties. The authority may contract to purchase and sell real and personal property. An obligation or expense must not be incurred unless existing appropriations together with the reasonably expected revenue of the port authority from other sources are sufficient to discharge the obligation or pay the expense when due. The state and its municipal subdivisions are not liable on the obligations. Notwithstanding section 16A.695, for leases or management contracts entered into with respect to property acquired or bettered with the proceeds of state general obligation bonds: (1) a seaway port authority may meet its obligations and expenses of operating and reinvest in capital improvements by retaining revenues received under the leases or management contracts and is not required to pay lease or management contract revenues to the commissioner of finance; and (2) the lease or management contract entered into by a seaway port authority must not be canceled or terminated as a result of changes or termination by the state in the governmental program of the seaway port authority unless compensation is paid as provided by law.

Subd. 3. **Duluth; audits.** A seaway port authority may employ a certified public accountant to annually examine and audit its books. The report of the exam and audit must be sent to the state auditor. The state auditor shall review the report and may accept it or in the public interest examine the books further.

Subd. 4. **Compliance examinations.** At the request of the city or upon the auditor's initiative, the state auditor may make a legal compliance examination of the authority for that city. Each authority examined must pay the total cost of the examination, including the salaries paid to the examiners while actually engaged in making the examination. The state auditor may bill monthly or at the completion of the audit. All collections received must be deposited in the general fund.

Subd. 5. **Audits.** The financial statements of the authority must be prepared, audited, filed, and published or posted in the manner required for the financial statements of the city that

established the authority. The financial statements must permit comparison and reconciliation with the city's accounts and financial reports. The report must be filed with the state auditor by June 30 of each year. The auditor shall review the report and may accept it or, in the public interest, audit the books of the authority.

History: *1987 c 291 s 57; 1989 c 335 art 4 s 87; 1996 c 452 s 35*

469.057 PORT CONTROL BY OTHERS; PETITION; INTERVENTION.

Subdivision 1. **Regulation.** Unless otherwise provided by law, all laws now or hereafter vesting jurisdiction or control in the Department of Public Service or a successor agency of the state of Minnesota, in the Interstate Commerce Commission or a successor agency, if any, or Department of Defense of the United States, or in similar regulatory bodies shall apply to any transportation, terminal, or other facility owned, operated, leased, or controlled by the port authority with the same force and effect as if the transportation, terminal, or other facility were owned, operated, leased, or controlled by a private corporation.

Subd. 2. **Seaport control limited.** Neither the Department of Public Service nor a successor agency, if any, has jurisdiction over a seaway port authority for the following matters to the extent they are connected with handling interstate commerce:

(1) charges for stevedoring of vessels;

(2) receiving and delivering cargo for vessels;

(3) car and truck unloading and loading cargo for vessels;

(4) watching cargo for vessels;

(5) charges to vessels for use of facilities;

(6) charges against railroad, trucking companies or shippers for use of facilities; and

(7) delivery and warehouse charges for cargo to and from and in warehouses on seaway port authority property.

Subd. 3. **Petitions, intervention.** A port authority may petition a public body of any kind or level having jurisdiction of the matter, for any relief, rates, rule, or action that the port authority believes will improve the handling of commerce in and through the port or improve terminal and transportation facilities in the port. The port authority may join with another authority sharing its port in making the petition. A port authority also may intervene before any public body in a proceeding affecting the commerce of the port. In the proceeding, the port authority is one of the official representatives of the port district along with other interested persons.

History: *1987 c 291 s 58; 2003 c 2 art 1 s 43; art 4 s 19*

469.058 INDUSTRIAL DEVELOPMENT DISTRICTS.

Subdivision 1. **Creation; notice; findings.** A port authority may create and define the boundaries of industrial development districts in their port districts after holding a public hearing on the matter. At least ten days before the hearing, the authority shall publish notice of the hearing in a daily newspaper of general circulation in the port district. The development district may be created if the authority finds that a development district is proper and desirable to establish and develop a system of harbor and river improvements and industrial developments in its port district. In this section, "development" includes redevelopment, and "developing" includes redeveloping.

Subd. 2. **Policy.** It is state policy in the public interest to have a port authority exercise the power of eminent domain, and advance and spend public money for the purposes in sections 469.048 to 469.068, and to provide the means to develop marginal property according to the findings in subdivision 3.

Subd. 3. **Findings.** The legislature makes the findings in this subdivision about the purposes of this section.

(a) Sound development of the economic security of the people in port authority cities depends on proper development of marginal property. The general welfare of the residents of port districts requires remedies for the injurious conditions of marginal property by appropriate means.

(b) Marginal property cannot be developed without public participation and assistance in: (1) acquiring land, (2) planning, (3) financing of land assembly in the work of clearance and development, and (4) making necessary improvements for developing.

When the development of marginal property cannot be done by private enterprise alone, it is in the public interest to exercise the power of eminent domain, to advance and spend public money, and to provide the means to develop marginal property.

(c) The decline of marginal lands often cannot be reversed except by developing all or most of those lands. Private development may be uneconomic and practically impossible because of costs and lack of legal power. The public may have to acquire sizable areas of marginal property at fair prices to remedy the conditions on the marginal property, and to develop the areas under proper supervision, with appropriate planning and continuing land use. The development of land acquired under sections 469.048 to 469.068 is a public necessity and use and a governmental function. The sale or lease of the land after development is incidental to the real purpose: to remove the condition making the property marginal.

(d) The development of marginal property and its continuing use are public uses, public purposes, and government functions that justify spending or advancing public money and acquiring private property. The development is a state concern in the interest of health, safety, and

welfare of the people of the state and of all residents and property owners in communities having marginal property. Marginal property causes problems beyond control of police power alone.

History: *1987 c 291 s 59*

469.059 DEVELOPMENT DISTRICT POWERS.

Subdivision 1. **In general.** A port authority, or a city authorized by law to exercise the powers of a port authority, may use the powers in this section for the purposes in section 469.058, subdivision 1.

Subd. 2. **Acquire property.** The port authority may acquire by lease, purchase, gift, devise, or condemnation proceedings the needed right, title, and interest in property to create industrial development districts. A port authority may lease property in or out of its port district if it believes the property is suitable and proper to use to carry out its duties and responsibilities. It shall pay for the property out of money it receives under sections 469.059 to 469.068. It may hold and dispose of the property subject to the limits and conditions in sections 469.049, 469.050, and 469.058 to 469.068. The title to property acquired by condemnation or purchase must be in fee simple, absolute. The port 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 469.049, 469.050, and 469.058 to 469.068. Property acquired, owned, leased, controlled, used, or occupied by the port 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 port authority holds property for its own purpose. When property is sold it begins to be taxed again.

Subd. 3. **Options.** The port authority may sign options to purchase, sell, or lease property.

Subd. 4. **Eminent domain.** The port authority may exercise the power of eminent domain under chapter 117, or under its city's charter to acquire property it is authorized to acquire by condemnation. The port authority may acquire in this way property acquired by its owner by eminent domain or property already devoted to a public use only if its city's council approves. The port authority may take possession of property to be condemned after it files a petition in condemnation proceedings describing the property. The authority may abandon the condemnation before taking possession.

Subd. 5. **Contracts.** The port authority may make contracts for an industrial development purpose within the powers given it in sections 469.049, 469.050, and 469.058 to 469.068.

Subd. 6. **Partner.** The port authority may be a limited partner.

Subd. 7. **Rights; easements.** The port authority may acquire rights or an easement for a term of years or perpetually for development of an industrial district.

Subd. 8. **Supplies; materials.** The port authority may buy the supplies and materials it needs to carry out this section.

Subd. 9. **Receive public property.** The port authority may accept land, money, or other assistance, whether by gift, loan or otherwise, in any form from the federal or state government, or an agency of either, or a local subdivision of state government to carry out sections 469.048 to 469.068 and to acquire and develop an industrial development district and its facilities under this section.

Subd. 10. **Tax-forfeited land.** The port authority may use the power of a governmental subdivision under section 282.01 to acquire land for and develop an industrial development district. The authority may exercise the power of a city of the first class under that section to acquire land forfeited to the state for nonpayment of taxes.

Subd. 11. **Procedure.** Tax-forfeited lands in an industrial development district that are vested in the state shall be conveyed to the port authority that is developing the district for one dollar per tract. The port authority may use and later resell the land for purposes of sections 469.048 to 469.068.

In conveying tax-forfeited land to a port authority, the state may not retain a possibility of reverter or right of reentry as it does under section 282.01, subdivision 1e.

The commissioner of revenue shall convey tax-forfeited parcels in an industrial development district to the port authority, if the authority petitions for conveyance under sections 469.048 to 469.068 and pays $1 per tract.

The attorney general shall approve the form of the deed of conveyance. The port authority shall receive absolute title to the tract, subject only to a reservation of minerals and mineral rights, under section 282.12. The deed of conveyance must not contain a restriction on the use of the premises. The conveyance divests the state of all further right, title, claim or interest in the tracts, except for the reservation of minerals and mineral rights.

Subd. 12. **Development district power.** The port authority may sell or lease land held by it for river, harbor or industrial development in industrial development districts. The authority may, if in the public interest, build suitable buildings or structures on land owned by it. The authority may furnish capital equipment to be located permanently or used exclusively on the lands or in the buildings if necessary to the purposes of the buildings or structures. The port authority must intend that the buildings, structures, and equipment be leased or sold to private persons to further develop the industrial district.

The authority may acquire, develop, sell, or lease single or multiple tracts of land regardless of size, to be developed as a part of the industrial development of the district under sections 469.048 to 469.068.

Subd. 13. **Tax increment.** The port authority may request that the county auditor of the county of its industrial development district certify the latest net tax capacity of the legally described taxable real property in the request or of all the taxable real property in the district. The auditor shall make the certification. Valuation that is contributed to an areawide tax base under chapter 473F must be excluded from the certification. Each year the auditor shall certify to the authority the amounts and percentages of increase or decrease in the certified net tax capacity. The part of the change that is contributed to an areawide tax base under chapter 473F must be excluded.

The auditor shall compute the local tax rates of taxes against the original certified net tax capacity. The auditor shall also extend the rates against any increased net tax capacity. The auditor shall then send the resulting tax increment to the port authority. The procedure to be used for computing and sending the increments is provided in section 469.042, subdivisions 2 and 3.

The port authority shall keep tax increments received for a district in a special account on its official books and records.

The auditor shall send the tax increments to the port authority until the cost, including interest, of redevelopment of the marginal property within the district has been fully reimbursed. The port authority shall report to the auditor when the cost is fully reimbursed. After that the auditor shall compute and extend the local tax rates against the entire net tax capacity of the property and send the taxes to all taxing districts. The city council may direct that part or all of the tax collected from the property be pledged and appropriated to pay general obligation bonds of the authority. After the auditor has certified the base net tax capacity used to compute tax increments and while the tax increment is kept in a separate account, the auditor must not include increases in the net tax capacity of the property in the net tax capacity of a taxing district to compute its debt or levy limit or to compute the amount of its state or federal aid. This subdivision applies to projects for which the port authority requested a certification on the project before August 2, 1979.

Subd. 14. **Foreign trade zone.** The port authority may apply to the board defined in United States Code, title 19, section 81a, for the right to use the powers provided in United States Code, title 19, sections 81a to 81u. If the right is granted, the authority may use the powers in or out of its port district. One authority may apply with another port authority.

Subd. 15. **Extension of other authorities' powers.** The port authority may exercise powers and duties of a redevelopment agency under sections 469.152 to 469.165, for a purpose in sections 469.001 to 469.047 or 469.048 to 469.068. The port authority may also exercise the powers and duties in sections 469.001 to 469.047 and 469.048 to 469.068, for a purpose in sections 469.152 to 469.165.

Subd. 16. **Parking and other facilities.** The port authority may operate and maintain a public parking or other public facility to promote development in a development district.

Subd. 17. **Secondary market.** The port authority may 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.

History: *1987 c 291 s 60; 1988 c 580 s 4; 1988 c 719 art 5 s 84; 1989 c 329 art 13 s 20; 1Sp1989 c 1 art 2 s 11; 1990 c 481 s 1; 1990 c 604 art 3 s 40; 2006 c 214 s 20*

469.060 GENERAL OBLIGATION BONDS.

Subdivision 1. **Power; procedure.** A port authority may issue bonds in the principal amount authorized by its city's council. The bonds may be issued in anticipation of income from any source. The bonds may be issued: (1) to secure funds needed by the authority to pay for acquired property or (2) for other purposes in sections 469.049, 469.050, and 469.058 to 469.068. The bonds must be in the amount and form and bear interest at the rate set by the city council. Except as otherwise provided in sections 469.048 to 469.068, the issuance of the bonds is governed by chapter 475. The port authority when issuing the bonds is a municipal corporation under chapter 475. Notwithstanding any contrary city charter provision or any general or special law, the bonds may be issued and sold without submission of the question to the electors of the city, provided that the ordinance of the governing body of the city authorizing issuance of the bonds by the port authority shall be subject to any provisions in the city charter pertaining to the procedure for referendum on ordinances enacted by the governing body.

Subd. 2. **Outside debt limit.** Bonds issued by the port authority must not be included in the net debt of its city. Money received under this section must not be included in a per capita limit on taxing or spending in the port authority's city's charter. The authority is also exempt from the limit.

Subd. 3. **Detail; maturity.** The port authority with the consent of its city's council shall set the date, denominations, place of payment, form, and details of the bonds. The bonds must mature serially. The first installment must be due in not more than three years and the last in not more than 30 years from the date of issuance.

Subd. 4. **Signatures; coupons; liability.** The bonds must be signed by the president of the port authority, be attested by its secretary, and be countersigned by its treasurer. The interest coupons must be attached to the bonds. The coupons must be executed and authenticated by the printed, engrossed, or lithographed facsimile signature of the port authority's president and secretary. The bonds do not impose any personal liability on a member of the port authority.

Subd. 5. **Pledge.** The bonds must be secured by the pledge of the full faith, credit, and resources of the issuing port authority's city. The port authority may pledge the full faith, credit, and resources of the city only if the city specifically authorizes the authority to do so. The city

council must first decide whether the issuance of the bonds by the authority is proper in each case and if so, the amount of bonds to issue. The city council shall give specific consent in an ordinance to the pledge of the city's full faith, credit, and resources. The port authority shall pay the principal amount of the bonds and the interest on it from taxes levied under this section to make the payment or from authority income from any source.

Subd. 6. **Tax levy.** A port authority that issues bonds under this section, shall, before issuing them, levy a tax for each year on the taxable property in the authority's city. The tax must be for at least five percent more than the amount required to pay the principal and interest on the bonds as the principal and interest mature. The tax must be levied annually until the principal and interest are paid in full. After the bonds have been delivered to the purchasers, the tax may not be repealed until the debt is paid. After the bonds are issued, the port authority need not take any more action to authorize extending, assessing, and collecting the tax. The authority's secretary shall immediately send a certified copy of the levy to the county auditor, together with full information on the bonds for which the tax is levied. The county auditor shall extend and assess the levied tax annually until the principal and interest are paid in full. The port authority shall transfer the surplus from the excess levy in this section to a sinking fund after the principal and interest for which the tax was levied and collected is paid. The port authority may direct its secretary to send a certificate to the county auditor before September 15 in a year. The certificate must state how much available income, including the amount in the sinking fund, the authority will use to pay principal or interest or both on each specified issue of the authority's bonds. The auditor shall then reduce the bond levy for that year by that amount. The port authority shall then set aside the certified amount and may not use it for any purpose except to pay the principal and interest on the bonds. The taxes in this section shall be collected and sent to the port authority by the county treasurer as provided in chapter 276. The taxes must be used only to pay the bonds when due.

Subd. 7. **Authorized securities.** Bonds legally issued under this chapter are authorized securities under section 50.14. A savings bank, trust company, or insurance company may invest in them. A public or municipal corporation may invest its sinking funds in them. The bonds may be pledged by a bank or trust company as security for the deposit of public money in place of a surety bond.

The authority's bonds are instrumentalities of a public governmental agency.

History: *1987 c 291 s 61; 1994 c 416 art 1 s 48; 1995 c 256 s 8*

469.061 REVENUE BONDS; PLEDGE; COVENANTS.

Subdivision 1. **Power.** A port authority may decide by resolution to issue its revenue bonds either at one time or in series from time to time. The revenue bonds may be issued to provide money to pay to acquire land needed to operate the authority, to purchase, construct, install, or

furnish capital equipment to operate a port terminal, transportation, or industrial facility of any kind in its port district, or to pay to extend, enlarge, or improve a project under its control. The issued bonds may include the amount the authority considers necessary to establish an initial reserve to pay principal and interest on the bonds. The port authority shall state in a resolution how the bonds and their attached interest coupons are to be executed.

Subd. 2. **Form.** The bonds of each series issued by the port authority under this section shall bear interest at a rate or rates, shall mature at the time or times within 30 years from the date of issuance, and shall be in such form, whether payable to bearer, registrable as to principal, or fully registrable, as determined by the port authority. Section 469.060, subdivision 7, shall apply to all bonds issued under this section, and the bonds and their coupons, when payable to bearer, shall be negotiable instruments.

Subd. 3. **Sale.** The sale of revenue bonds issued by the port authority shall be at public or private sale. The bonds may be sold in the manner and for the price that the port authority determines to be for the best interest of the port authority. The bonds may be made callable, and if so issued may be refunded.

Subd. 4. **Agreements.** The port authority may by resolution make an agreement or covenant with the bondholders or their trustee if it determines that the agreement or covenant is needed or desirable to carry out the powers given to the authority under this section and to assure that the revenue bonds are marketable and promptly paid.

Subd. 5. **Revenue pledge.** In issuing bonds under sections 469.049, 469.050, and 469.058 to 469.068, the port authority may secure the payment of the principal and interest on the bonds by a pledge of and lien on port authority revenue. The revenue must come from the facility to be acquired, constructed, or improved with the bond proceeds or from other facilities named in the bond-authorizing resolutions. The authority also may secure the payment with its promise to impose, maintain, and collect enough rentals, rates, and charges, for the use and occupancy of the facilities and for services furnished in connection with the use and occupancy, to pay its current expenses to operate and maintain the named facilities, and to produce and deposit sufficient net revenue in a special fund to meet the interest and principal requirements of the bonds, and to collect and keep any more money required by the resolutions. The authority shall decide what constitutes "current" expense under this subdivision based on what is normal and reasonable under generally accepted accounting principles. Revenues pledged by the port authority must not be used or pledged for any other port authority purpose or to pay any other bonds issued under this section or under section 469.060, unless the other use or pledge is specifically authorized in the bond-authorizing resolutions.

Subd. 6. **Not city debt.** Revenue bonds issued under this section are not a debt of the port authority's city nor a pledge of that city's full faith and credit. The bonds are payable only from

project revenue as described in this section. A revenue bond must contain on its face a statement to the effect that the port authority and its city do not have to pay the bond or the interest on it except from revenue and that the faith, credit, and taxing power of the city are not pledged to pay the principal of or the interest on the bond.

Subd. 7. **Not applicable.** Sections 469.153, subdivision 2, paragraph (e), and 469.154, subdivisions 3, 4, and 5, do not apply to revenue bonds issued under this section and sections 469.152 to 469.165 if the interest on the revenue bonds is subject to both state and federal income tax or if the revenue bond proceeds are not loaned by the port authority to a private person.

History: *1987 c 291 s 62*

469.062 OTHER BONDS.

Subdivision 1. **City bonds, generally.** A port authority city except the city of Duluth may issue bonds and appropriate bond proceeds to purchase, construct, extend, improve, and maintain docks, warehouses, or other port or terminal facilities owned or to be owned or operated by its port authority. This action may be taken in the same manner as if the facilities were public utility plants, needed public buildings, and public conveniences capable of producing revenue, and were owned or to be owned or operated solely by the city.

Subd. 2. **Duluth bonds.** The city of Duluth may issue not more than $1,000,000 of its general obligation bonds and may appropriate the bond proceeds for any of the purposes in subdivision 1 and to conserve, develop, reclaim, protect, and improve lands under the jurisdiction of its seaway port authority. The bonds shall be issued only after approval of two-thirds of the members of the city council. The bonds shall be issued, sold, and secured under sections 475.60 to 475.73. The bonds are valid without an election.

Subd. 3. **Seaport bonds.** A seaway port authority may issue and sell its negotiable revenue bonds for a purpose in section 469.055, subdivision 6, or for a purpose in this chapter related to the development of a seaport. The bonds must be issued, sold, and secured in the same manner as the bonds in subdivision 5 except that a trust indenture may but need not be executed. The bond resolutions and indenture, if any, must list the facilities whose net revenues are to be pledged for the bond and interest payments. The authority may mortgage some or all of its facilities, except a tunnel or bridge for vehicles, including additions and improvements, to a trustee for the bondholders. The mortgaged facilities may include those financed by the bonds, those operated by the authority, or those leased to others. The authority may agree to covenants and restrictions about: (1) issuing more bonds payable from net revenues of the same facilities, (2) changes to the bond resolutions or the indenture, (3) the remedies and priorities of the bondholders in case of default, and (4) anything else about the security of the bonds that the authority decides is needed to best market the bonds.

Subd. 4. **St. Louis County bonds.** When two-thirds of the members of the city council of the city of Duluth approve issuance of general obligation bonds of the city, the proceeds of which are to be appropriated to the seaway port authority, the board of St. Louis County commissioners may by five-sevenths vote issue general obligation bonds of the county. The bonds may be issued in an amount not to exceed $4,000,000, and the proceeds appropriated to be used by the seaway port authority for any or all of the purposes specified in section 469.062, subdivision 2, if the county board by resolution determines that the conservation, development, reclamation, protection, and improvement of lands under the jurisdiction of the port authority and the construction of port facilities thereon will promote the public welfare of the county at large and the economic well-being of its people, industries, and commerce, and is an essential governmental function of the county, and can best be performed through the medium of the port authority. The bonds shall be issued, sold, and secured as provided in sections 475.60 to 475.753. The bonds are valid without an election.

Subd. 5. **Tunnel and bridge bonds.** The authority may issue and sell its negotiable revenue bonds for the purposes of section 469.055, subdivision 9. The bonds must be authorized by port authority resolutions containing the customary provisions about the form of the bonds and their maturity, interest rate, sinking fund, redemption, and refunding. The bonds must be issued under a trust indenture from the port authority to a corporate trustee. The indenture must contain the customary provisions as to: (1) the issuance of bonds; (2) the application of the revenues of the bridge or tunnel to create a sinking fund to pay the bonds and interest on them; (3) the holding of the proceeds of the bonds in a special trust to acquire or construct the bridge or tunnel; and (4) the pledge and assignment by the port authority to the trustee of the bridge or tunnel revenues in excess of the cost of operation and maintenance of it as security for the payment of the principal of and interest on the bonds. The port authority shall collect tolls for transit over the bridge or through the tunnel acquired or constructed under this section sufficient at all times to pay for its operation and maintenance and to pay the principal of and interest on the bonds issued under this subdivision. The bonds and the coupons showing interest on them are an irrevocable contract between the bondholders and the port authority that the tolls shall always be sufficient for those purposes. The bonds must not bear interest at more than eight percent per year. The bonds must not be sold for less than par plus accrued interest to the date of delivery and payment and may be sold at private sale without publishing prior notice of the sale. Bonds issued under this subdivision are not a debt of the port authority's city, are not subject to the city's debt limit, and are not payable from city property taxes. The bonds are payable solely from the toll revenues earned by the bridge or tunnel and pledged to the payment of the bonds.

History: *1987 c 291 s 63*

469.063 WHEN BOND ALLOCATION ACT APPLIES.

Sections 474A.01 to 474A.21 apply to obligations issued under sections 469.048 to 469.068 that are limited by a federal tax law as defined in section 474A.02, subdivision 8.

History: *1987 c 291 s 64; 1987 c 384 art 2 s 94; 2000 c 260 s 63*

469.064 PORT AUTHORITY ACTIVITIES.

Subdivision 1. **Government agent.** A port authority may cooperate with or act as agent for the federal or the state government, or a state public body, or an agency or instrumentality of a government or a public body to carry out sections 469.048 to 469.068 or any other related federal, state, or local law in the area of river, harbor, and industrial development district improvement.

Subd. 2. **Studies, analysis, research.** A port authority may study and analyze industrial development needs in its port district, and ways to meet the needs. A port authority may study the desirable patterns for industrial land use and community growth and other factors affecting local industrial development in the district and make the result of the studies available to the public and to industry in general. A port authority may engage in research and disseminate information on river, harbor, and industrial development in the port district.

Subd. 3. **Accept public land.** A port authority may accept conveyances of land from all other public agencies, commissions, or other units of government, including the housing and redevelopment authority of the city of Saint Paul and the state Metropolitan Airports Commission, if the land can be properly used by the port authority in a river, harbor, and industrial development district, to carry out the purposes of sections 469.048 to 469.068.

Subd. 4. **Industrial development.** A port authority may carry out the law on industrial development districts to develop and improve the lands in an industrial development district to make it suitable and available for industrial uses and purposes. A port authority may dredge, bulkhead, fill, grade, and protect the property and do anything necessary and expedient, after acquiring the property, to make it suitable and attractive as a tract for industrial development. A port authority may lease some or all of its lands or property and may set up local improvement districts in all or part of an industrial development district.

In general, with respect to an industrial development district, a port authority may use all the powers given a port authority by law.

Subd. 5. **Loans in anticipation of bonds.** A port authority after authorizing bonds under section 469.060 or 469.061 may borrow to provide money immediately required for the bond purpose. The loans may not exceed the amount of the bonds. The authority shall by resolution decide the terms of the loans. The loans must be evidenced by negotiable notes due in not more than 12 months from the date of the loan payable to the order of the lender or to bearer, to be

repaid with interest from the proceeds of the bonds when the bonds are issued and delivered to the bond purchasers. The loan must not be obtained from any commissioner of the port authority or from any corporation, association, or other institution of which a port authority commissioner is a stockholder or officer.

Subd. 6. **Use of proceeds.** The proceeds of obligations issued by a port authority under section 469.061 and temporary loans obtained under subdivision 5 may be used to make or purchase loans for port, industrial, or economic facilities that the authority believes will require financing. To make or purchase the loans, the port authority may enter into loan and related agreements, both before and after issuing the obligations, with persons, firms, public or private corporations, federal or state agencies, and governmental units under terms and conditions the port authority considers appropriate. A governmental unit in the state may apply, contract for, and receive the loans. Chapter 475 does not apply to the loans.

History: *1987 c 291 s 65*

469.065 SALE OF PROPERTY.

Subdivision 1. **Power.** A port authority may sell and convey property owned by it within a port or industrial district if it determines that the sale and conveyance are in the best interests of the district and its people, and that the transaction furthers its general plan of port improvement, or industrial development, or both. This section is not limited by other law on powers of port authorities.

Subd. 2. **Notice; hearing.** A port authority shall hold a hearing on the sale. At the hearing a taxpayer may testify for or against the sale. At least ten, but not more than 20, days before the hearing the authority shall publish notice of the hearing on the proposed sale in a newspaper. The newspaper must be published and of general circulation in the port authority's county and port district. The notice must describe the property to be sold and state the time and place of the hearing. The notice must also state that the public may see the terms and conditions of the sale at the authority's office and that at the hearing the authority will meet to decide if the sale is advisable.

Subd. 3. **Decision; appeal.** The port authority shall make its findings and decision on whether the sale is advisable and enter its decision on its records within 30 days of the hearing. A taxpayer may appeal the decision by filing a notice of appeal with the district court in the port or industrial district's county and serving the notice on the secretary of the port authority, within 20 days after the decision is entered. The only ground for appeal is that the action of the authority was arbitrary, capricious, or contrary to law.

Subd. 4. **Terms.** The terms and conditions of sale of the property must include the use that the bidder will be allowed to make of it. The authority may require the purchaser to file security to assure that the property will be given that use. In deciding the sale terms and conditions the

port authority may consider the nature of the proposed use and the relation of the use to the improvement of the harbor, the riverfront, and the port authority's city and the business and the facilities of the port authority in general. The sale must be made on the port authority's terms and conditions. The port authority may publish an advertisement for bids on the property at the same time and in the same manner as the notice of hearing required in this section. The authority may award the sale to the bid considered by it to be most favorable considering the price and the specified intended use. The port authority also may sell the property at private sale at a negotiated price if after its hearing the authority considers that sale to be in the public interest and to further the aims and purposes of sections 469.048 to 469.068.

Subd. 5. **One-year deadline.** Within one year from the date of purchase, the purchaser shall devote the property to its intended use or begin work on the improvements to the property to devote it to that use. If the purchaser fails to do so, the port authority may cancel the sale and title to the property shall return to it. The port authority may extend the time to comply with a condition if the purchaser has good cause. The terms of sale may contain other provisions that the port authority considers necessary and proper to protect the public interest. A purchaser must not transfer title to the property within one year of purchase without the consent of the port authority.

Subd. 6. **Covenant running with the land.** A sale made under this section must incorporate in the deed as a covenant running with the land the conditions of sections 469.048 to 469.068 relating to the use of the land. If the covenant is violated the authority may declare a breach of the covenant and seek a judicial decree from the district court declaring a forfeiture and a cancellation of the deed.

Subd. 7. **Plans; specifications.** A conveyance must not be made until the purchaser gives the port authority plans and specifications to develop the property sold. The port authority must approve the plans and specifications in writing. The port authority may require preparation of final plans and specifications before the hearing on the sale.

History: *1987 c 291 s 66*

469.066 ADVANCES BY PORT AUTHORITY.

A port authority may advance its general fund money or its credit, or both, without interest, for the objects and purposes of sections 469.058 to 469.068. The advances must be repaid from the sale or lease, or both, of developed or redeveloped lands. If the money advanced for the development or redevelopment was obtained from the sale of the port authority's general obligation bonds, then the advances must have not less than the average annual interest rate that is on the port authority's general obligation bonds that are outstanding at the time the advances are made. The port authority may advance repaid money for more objects and purposes of sections 469.058 to 469.068 subject to repayment in the same manner. The port authority must use rentals

of lands acquired with advanced money to collect and maintain reserves to secure the payment of principal and interest on revenue bonds issued to finance port or industrial facilities, if the rentals have been pledged for that purpose under section 469.061. Advances made to acquire lands and to construct facilities for recreation purposes if authorized by law need not be reimbursed under this section. Sections 469.048 to 469.068 do not exempt lands leased from the authority to a private person or entity from assessments or taxes against the leased property while the lessee is liable for the assessments or taxes under the lease.

History: *1987 c 291 s 67*

469.067 FINDING LAND IS MARGINAL IS PRIMA FACIE EVIDENCE.

A port authority decision that property it seeks is marginal is prima facie evidence in eminent domain proceedings that the property is marginal if the decision is made in a resolution, stating the characteristics that make the property marginal.

History: *1987 c 291 s 68*

469.0671 NO STATE BAILOUT OF PORT AUTHORITIES.

State appropriations or credit of the state must not be used to pay or guarantee the payment of the debt of a port authority.

History: *1986 c 399 art 2 s 12; 1986 c 400 s 12; 1Sp1986 c 3 art 2 s 41*

469.068 BID LAW FOR CONSTRUCTION CONTRACTS.

Subdivision 1. **Contracts; bids; bonds.** All construction work and every purchase of equipment, supplies, or materials necessary in carrying out the purposes of sections 469.048 to 469.068, that involve the expenditure of $1,000 or more, shall be awarded by contract as provided in this subdivision or in subdivision 1a. Before receiving bids under sections 469.048 to 469.068, the authority shall publish, once a week for two consecutive weeks in the official newspaper of the port's city, a notice that bids will be received for the construction work, or 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 and name a time and place where the 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, read publicly, and recorded, the commissioners shall award the contract to the lowest responsible bidder, reserving the right to reject any or all bids. The contract shall be executed in writing and the person to whom the contract is awarded shall give sufficient bond to the board for its faithful performance. If no satisfactory bid is received, the port authority may readvertise, or, by an affirmative vote of two of its commissioners in the case of a three-member commission, or five of its members in the case of a seven-member commission, may authorize the authority to perform any part or parts

of any construction work by day labor under conditions it prescribes. The commissioners may establish reasonable qualifications to determine the fitness and responsibility of bidders, and require bidders to meet the qualifications before bids are accepted. If the commissioners by a two-thirds or five-sevenths vote declare that an emergency exists requiring the immediate purchase of any equipment or material or supplies at a cost in excess of $1,000, but not exceeding $5,000, in amount, 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 section, is unforeseen circumstances or conditions which result in the jeopardizing of human life or property.

In all contracts involving the employment of labor, the commissioners shall stipulate conditions they deem reasonable, as to the hours of labor and wages and may stipulate as to the residence of employees to be employed by the contractors.

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.

Subd. 1a. **Contracts; best value alternative.** As an alternative to the procurement method described in subdivision 1, a contract may be awarded to the vendor or contractor offering the best value under a request for proposals as described in section 16C.28, subdivision 1, paragraph (a), clause (2), and paragraph (c).

Subd. 2. **City purchasing.** A port authority may use the facilities of its city's purchasing department in connection with construction work and to purchase equipment, supplies, or materials.

Subd. 3. **Uniform municipal contracting law.** A port authority may use the dollar limits on contracts for the basis for competitive bids, quotations, or purchase or sale in the open market contained in section 471.345 as an alternative to the limits contained in subdivision 1.

History: *1987 c 291 s 69; 1996 c 349 s 1; 2007 c 148 art 3 s 28,29*

SPECIFIC PORT AUTHORITIES

469.069 ALBERT LEA.

The city of Albert Lea may establish a port authority commission that has the same powers as a port authority established under section 469.049 or other law. If the city establishes a port authority commission, the city shall exercise all the powers relating to the port authority granted to a city by sections 469.048 to 469.068 or other law. Notwithstanding any law to the contrary, the city may choose the name of the commission and may appoint a seven-member commission.

History: *1987 c 291 s 70*

469.070 AUSTIN.

The city of Austin may establish a port authority commission that has the same powers as a port authority established under section 469.049 or other law. If the city establishes a port authority commission, the city shall exercise all the powers relating to the port authority granted to a city by sections 469.048 to 469.068 or other law. Notwithstanding any law to the contrary, the city may choose the name of the commission and may appoint a seven-member commission.

History: *1987 c 291 s 71*

469.071 BLOOMINGTON.

Subdivision 1. **Establishment of port authority.** The city of Bloomington may establish a port authority that has the same powers as a port authority established under section 469.049. If the city establishes a port authority, the city shall exercise all the powers relating to the port authority granted to a city by section 469.049 or other law and may do all that a port authority may do under sections 469.048 to 469.068.

Subd. 2. **Acquisition of property.** The port authority of the city of Bloomington may lease or purchase and accept a conveyance of real property from another public agency, commission, or unit of government if the port authority is able to properly use the property for the purposes of sections 469.048 to 469.068.

Subd. 3. **Issuance of bonds.** The port authority may, with the approval of its city council, issue bonds under section 469.060 to pay for the real property.

Subd. 4. **Property tax exemption.** Notwithstanding section 473.556, subdivision 6, or any other law, real property conveyed to the port authority of the city of Bloomington by the metropolitan sports facilities commission is exempt from taxation under sections 473.556, subdivision 4; and 469.012, subdivision 2.

Subd. 5. **Exception; parking facilities.** Notwithstanding section 469.068, the Bloomington port authority need not require competitive bidding with respect to a structured parking facility constructed in conjunction with, and directly above or below, or adjacent and integrally related to, a development and financed with the proceeds of tax increment or revenue bonds.

Subd. 6. **Membership.** The port authority of the city of Bloomington shall consist of seven commissioners. The mayor and a member of the city council shall serve on the port authority during their service as mayor and council member.

For vacancies that occur among the other members after the effective date of Laws 1992, chapter 384, the terms shall be as follows: for the first two vacancies, each member shall serve a term of two years and for the last three vacancies, two members shall serve a term of four years and one member shall serve a term of six years. For subsequent terms, the term is six years.

History: *1987 c 291 s 72; 1988 c 702 s 5; 1989 c 209 art 2 s 1; 1992 c 384 s 1*

469.072 BRECKENRIDGE.

Subdivision 1. **Establishment.** The city of Breckenridge may establish a port authority commission that has the same powers as a port authority established under section 469.049 or other law. If the city establishes a port authority commission, the city shall exercise all the powers relating to the port authority granted to a city by sections 469.048 to 469.068 or other law. Notwithstanding any law to the contrary, the city may choose the name of the commission and may appoint a seven-member commission.

Subd. 2. **Municipal housing and redevelopment authority.** If the city of Breckenridge establishes a port authority commission under subdivision 1, the commission may exercise the same powers as a municipal housing and redevelopment authority established under sections 469.001 to 469.047 or other law. The city shall then exercise all the powers relating to the municipal housing and redevelopment authority granted to a city by sections 469.001 to 469.047 or other law.

History: *1987 c 291 s 73*

469.0721 CANNON FALLS; REDWOOD FALLS; PORT AUTHORITY.

Each of the cities of Cannon Falls and Redwood Falls may, by adoption of an enabling resolution in compliance with the procedural requirements of section 469.0723, establish a port authority commission that, subject to section 469.0722, has the same powers as a port authority established under section 469.049, or other law, and a housing and redevelopment authority established under chapter 469, or other law, and is an agency that may administer one or more municipal development districts under section 469.131. The port authority commission may exercise any of these powers within industrial development districts or within other property under the jurisdiction of the commission. The port authority commission may enter into agreements with nonprofit organizations or corporations, including, but not limited to, joint venture and limited partnership agreements, in order to carry out its purposes. If a city establishes a port authority commission under this section, the city shall exercise all the powers in dealing with a port authority that are granted to a city by chapter 458, and all powers in dealing with a housing and redevelopment authority that are granted to a city by chapter 462, or other law.

History: *1988 c 702 s 17; 1989 c 209 art 2 s 41*

469.0722 LIMITATION OF POWERS.

Subdivision 1. **In this section.** An enabling resolution may impose the limits listed in this section on the actions of the port authority of Cannon Falls or Redwood Falls.

Subd. 2. **Not use specified powers.** An enabling resolution may require that the port

authority must not use specified powers contained in chapters 458 and 462, or that the port authority must not use powers without the prior approval of the city council.

Subd. 3. **Transfer reserves.** An enabling resolution may require the port authority to transfer a portion of the reserves generated by activities of the port authority that the city council determines is not necessary for the successful operation of the port authority, to the city general fund, to be used for any general purpose of the city. Reserves previously pledged by the port authority must not be transferred.

Subd. 4. **Bond approval.** An enabling resolution may require that the sale of bonds or obligations other than general obligation tax supported bonds or obligations issued by the port authority be approved by the city council before issuance.

Subd. 5. **Budget process.** An enabling resolution may require that the port authority follow the budget process for city departments as provided by the city and as implemented by the city council and mayor.

Subd. 6. **Levy approval.** An enabling resolution may require that the port authority must not levy a tax for its benefit without approval of the city council.

Subd. 7. **Consistent with city plan.** An enabling resolution may require that all official actions of the port authority must be consistent with the adopted comprehensive plan of the city, and official controls implementing the comprehensive plan.

Subd. 8. **Project approval.** An enabling resolution may require that the port authority submit to the city council for approval by resolution any proposed project as defined in section 469.174, subdivision 8.

Subd. 9. **Governmental relations.** An enabling resolution may require that the port authority submit all planned activities for influencing the action of any other governmental agency, subdivision, or body to the city council for approval.

Subd. 10. **Administration; management.** An enabling resolution may require that the port authority submit its administrative structure and management practices to the city council for approval.

Subd. 11. **Employee approval.** An enabling resolution may require that the port authority must not employ anyone without the approval of the city council.

Subd. 12. **Other limits.** An enabling resolution may impose any other limit or control established by the city council.

Subd. 13. **Modifications.** An enabling resolution may be modified at any time, subject to subdivision 16. A modification must be made according to the procedural requirements of section 469.0723.

Subd. 14. **Modification procedure.** Each year, within 60 days of the anniversary date of the first adoption of the enabling resolution, the port authority shall submit a report to the city council stating whether and how it wishes the enabling resolution to be modified. Within 30 days of receipt of the recommendation, the city council shall review the enabling resolution, consider the recommendations of the port authority, and make any modification it considers appropriate. A modification must be made according to the procedural requirements of section 469.0723. The petition requirement does not limit the right of the port authority to petition the city council at any time.

Subd. 15. **Council action conclusive.** A determination by the city council that the limits imposed under this section have been complied with by the port authority is conclusive.

Subd. 16. **Not to impair bonds, contracts.** Limits imposed under this section must not be applied in a manner that impairs the security of any bonds issued or contracts executed before the limit is imposed. The city council must not modify any limit in effect at the time any bonds or obligations are issued or contracts executed to the detriment of the holder of the bonds or obligations or any contracting party.

History: *1988 c 702 s 18; 1989 c 209 art 2 s 1*

469.0723 PROCEDURAL REQUIREMENT.

(a) The creation of a port authority by the city of Cannon Falls or Redwood Falls must be by written resolution known as the enabling resolution. Before adoption of the enabling resolution, the city council shall conduct a public hearing. Notice of the time and place of hearing, a statement of the purpose of the hearing, and a summary of the resolution must be published in a newspaper of general circulation within the city once a week for two consecutive weeks. The first publication must appear within 30 days before the public hearing.

(b) A modification to the enabling resolution must be by written resolution and must be adopted after notice is given and a public hearing conducted as required for the original adoption of the enabling resolution.

History: *1988 c 702 s 19*

469.0724 GENERAL OBLIGATION BONDS.

The port authority of Cannon Falls or Redwood Falls must not proceed with the sale of general obligation tax supported bonds until the city council by resolution approves the proposed issuance. The resolution must be published in the official newspaper. If, within 30 days after the publication, a petition signed by voters equal in number to ten percent of the number of voters at the last regular city election is filed with the city clerk, the city and port authority must not issue

the general obligation tax supported bonds until the proposition has been approved by a majority of the votes cast on the question at a regular or special election.

History: *1988 c 702 s 20*

469.0725 NAME.

The city of Cannon Falls or Redwood Falls may choose the name of its port authority commission.

History: *1988 c 702 s 21*

469.0726 REMOVAL OF COMMISSIONERS FOR CAUSE.

A commissioner of the port authority of Cannon Falls or Redwood Falls may be removed by the city council for inefficiency, neglect of duty, or misconduct in office. A commissioner may be removed only after a hearing. A copy of the charges must be given to the commissioner at least ten days before the hearing. The commissioner must be given an opportunity to be heard in person or by counsel at the hearing. After the charges have been submitted to a commissioner, the city council may temporarily suspend the commissioner. If the city council finds that the charges have not been substantiated, the commissioner shall be immediately reinstated. If a commissioner is removed, a record of the proceedings, together with the charges and findings, must be filed in the office of the city clerk.

History: *1988 c 702 s 22*

469.073 DETROIT LAKES.

Subdivision 1. **Establishment.** The city of Detroit Lakes may establish a port authority commission that has the same powers as a port authority established under section 469.049 or other law. If the city establishes a port authority commission, the city shall exercise all the powers relating to the port authority granted to a city by sections 469.048 to 469.068 or other law. Notwithstanding any law to the contrary, the city may choose the name of the commission.

Subd. 2. **Municipal housing and redevelopment authority.** If the city of Detroit Lakes establishes a port authority commission under subdivision 1, the commission may exercise the same powers as a municipal housing and redevelopment authority established under sections 469.001 to 469.047 or other law. The city shall then exercise all the powers relating to the municipal housing and redevelopment authority granted to a city by sections 469.001 to 469.047 or other law.

History: *1987 c 291 s 74*

469.074 DULUTH.

Subdivision 1. **May own, operate, or contract for vessels.** The Seaway Port Authority of

Duluth may acquire, purchase, charter, lease, mortgage, or otherwise own and operate vessels as may be necessary or convenient. The authority may enter into joint vessel ownership contracts or joint ventures with others, contract with vessel owners and operators, and enter into contractual relationships necessary or convenient to acquire, purchase, charter, lease, or operate vessels.

Subd. 2. **Old law does not apply to Minnesota Point.** The following quoted sentence from Minnesota Statutes 1961, section 458.59:

> "No state owned tax forfeited land comprising riparian lands or submerged lands within the harbor line as duly established, and all such tax-forfeited lands lying within a distance of 1,500 feet thereof, located in harbors upon the Great Lakes-St. Lawrence Seaway shall be offered for sale or sold to any private person, firm, or corporation and all such tax forfeited lands are hereby withdrawn from sale to such private persons, firms, or corporations."

does not apply to land located on Minnesota Point in the city of Duluth that is zoned residential under the zoning ordinance of the city. Before the land is offered for sale, the city council, the county board, and the port authority must approve the offering. A sale or conveyance of the land must not include riparian rights. The riparian rights are kept by the state.

History: *1987 c 291 s 75*

469.075 FERGUS FALLS.

Subdivision 1. **Establishment.** The city of Fergus Falls may establish a port authority commission that has the same powers as a port authority established under section 469.049 or other law. If the city establishes a port authority commission, the city shall exercise all the powers relating to the port authority granted to a city by sections 469.048 to 469.068 or other law. Notwithstanding any law to the contrary, the city may choose the name of the commission.

Subd. 2. **Municipal housing and redevelopment authority.** If the city of Fergus Falls establishes a port authority commission under subdivision 1, the commission may exercise the same powers as a municipal housing and redevelopment authority established under sections 469.001 to 469.047 or other law. The city shall then exercise all the powers relating to the municipal housing and redevelopment authority granted to a city by sections 469.001 to 469.047 or other law.

History: *1987 c 291 s 76*

469.076 GRANITE FALLS.

The Granite Falls City Council may use the powers of a governmental agency or subdivision under sections 469.048 to 469.068 except that the council may not use the powers in section 469.060. The powers must be used according to and for the purposes of Laws 1981, chapter 225.

History: *1987 c 291 s 77*

469.077 HASTINGS.

Subdivision 1. **Establishment; powers.** The city of Hastings may, by adoption of an enabling resolution in compliance with the procedural requirements of subdivision 3, establish a port authority commission that, subject to the provisions of subdivision 2, has the same powers as a port authority established under section 469.049 or other law, and a housing and redevelopment authority established under sections 469.001 to 469.047 or other law, and shall constitute an "agency" that may administer one or more municipal development districts under section 469.110. If the city establishes a port authority commission under this section, the city shall exercise all the powers relating to a port authority granted to any city by sections 469.048 to 469.068 or other law, and all powers relating to a housing and redevelopment authority granted to any city by sections 469.001 to 469.047 or other law.

Subd. 2. **Limitation of powers.** (a) The enabling resolution may impose the following limitations upon the actions of the port authority:

(1) that the port authority shall not exercise any specified powers contained in sections 469.001 to 469.047 and 469.048 to 469.068 or that the port authority shall not exercise any powers without the prior approval of the city council;

(2) that, except when previously pledged by the port authority, the city council may, by resolution, require the port authority to transfer any portion of the reserves generated by activities of the port authority which the city council determines is not necessary for the successful operation of the port authority, to the city general fund, to be used for any general purpose of the city;

(3) that the sale of all bonds or obligations issued by the port authority be approved by the city council before issuance;

(4) that the port authority follow the budget process for city departments as provided by the city and as implemented by the city council and mayor;

(5) that all official actions of the port authority must be consistent with the adopted comprehensive plan of the city, and any official controls implementing the comprehensive plan;

(6) that the port authority submit to the city council for approval by resolution any proposed project as defined in section 469.174, subdivision 8;

(7) that the port authority submit all planned activities for influencing the action of any other governmental agency, subdivision, or body to the city council for approval;

(8) that the port authority submit its administrative structure and management practices to the city council for approval; and

(9) any other limitation or control established by the city council by the enabling resolution.

(b) The enabling resolution may be modified at any time, subject to clause (e), and provided that any modification is made in accordance with the procedural requirements of subdivision 3.

(c) Without limiting the right of the port authority to petition the city council at any time, each year, within 60 days of the anniversary date of the initial adoption of the enabling resolution, the port authority shall submit to the city council a report stating whether and how the enabling resolution should be modified. Within 30 days of receipt of the recommendation, the city council shall review the enabling resolution, consider the recommendations of the port authority, and make any modifications it considers appropriate; provided that any modification shall be made in accordance with the procedural requirements of subdivision 3.

(d) A determination by the city council that the limitations imposed under this section have been complied with by the port authority shall be conclusive.

(e) Limitations imposed under this section must not be applied in a manner that impairs the security of any bonds issued or contracts executed prior to the imposition of the limitation. The city council shall not modify any limitations in effect at the time any bonds or obligations are issued or contracts executed to the detriment of the holder of the bonds or obligations or any contracting party.

Subd. 3. **Procedural requirement.** (a) The creation of a port authority by the city of Hastings must be by written resolution known as the enabling resolution. Prior to adoption of the enabling resolution, the city council shall conduct a public hearing. Notice of the time and place of hearing, a statement of the purpose of the hearing, and a summary of the resolution must be published in a newspaper of general circulation within the city once a week for two consecutive weeks. The first publication must appear not more than 30 days from the date of the public hearing.

(b) All modifications to the enabling resolution must be by written resolution and must be adopted after notice is given and a public hearing conducted as required for the original adoption of the enabling resolution.

Subd. 4. **Name.** Notwithstanding any law to the contrary, the city may choose the name of the commission.

Subd. 5. **Removal of commissioners for cause.** A commissioner of the port authority may be removed by the city council for inefficiency, neglect of duty, or misconduct in office. A commissioner shall be removed only after a hearing. A copy of the charges must be given to the commissioner at least ten days before the hearing. The commissioner must be given an opportunity to be heard in person or by counsel at the hearing. When written charges have been submitted against a commissioner, the city council may temporarily suspend the commissioner. If the city council finds that those charges have not been substantiated, the commissioner shall be immediately reinstated. If a commissioner is removed, a record of the proceedings, together with

the charges and findings, shall be filed in the office of the city clerk.

History: *1987 c 291 s 78*

469.0772 KOOCHICHING COUNTY; PORT AUTHORITY.

Subdivision 1. **Authority to establish.** The governing body of the county of Koochiching may establish a port authority that has the same powers as a port authority established under section 469.049. If the county establishes a port authority, the governing body of the county shall exercise all powers granted to a city by sections 469.048 to 469.068 or other law. Any city in Koochiching County may participate in the activities of the county port authority under terms jointly agreed to by the city and county.

Subd. 2. **Foreign trade zone.** Koochiching County or any city, town, or other political subdivision located in Koochiching County may apply to the board defined in United States Code, title 19, section 81a, for the right to use the powers provided in United States Code, title 19, sections 81a and 81u. If the right is granted the city, town, or other political subdivision may use the powers within or outside of a port district. The county, a city, town, or other political subdivision may apply jointly with any other city, town, or political subdivision located in Koochiching County.

History: *2003 c 127 art 12 s 18; 1Sp2003 c 21 art 10 s 11*

469.0775 MANKATO; PORT AUTHORITY.

The governing body of the city of Mankato may exercise all the powers of a port authority provided by sections 469.048 to 469.068, as if the city were a port authority; and the city may exercise all the powers relating to a port authority granted to a city by sections 469.048 to 469.068, or other law.

History: *1994 c 587 art 9 s 3*

469.078 MINNEAPOLIS.

Subdivision 1. **May use chapter 458 powers granted by 1980 law.** The city of Minneapolis may exercise those powers of a governmental agency or subdivision in sections 469.048 to 469.068 granted to it by Laws 1980, chapter 595.

Subd. 2. **Port operator exempt from bid law.** If the city of Minneapolis contracts with a corporation to operate a port facility, the corporation may sell, purchase, or rent supplies, materials, or equipment, or construct, alter, expand, repair, or maintain real or personal property at the facility without regard to section 471.345. This subdivision applies regardless of the source of funds disbursed by the corporation.

History: *1987 c 291 s 79; 1997 c 7 art 1 s 143*

469.079 NORTH MANKATO.

Subdivision 1. **Establishment.** The city of North Mankato may establish a port authority commission that has the same powers as a port authority established under section 469.049 or other law. If the city establishes a port authority commission, the city shall exercise all the powers relating to the port authority granted to a city by sections 469.048 to 469.068 or other law. Notwithstanding any law to the contrary, the city may choose the name of the commission and may appoint a seven-member commission.

Subd. 2. **Municipal housing and redevelopment authority.** If the city of North Mankato establishes a port authority commission under subdivision 1, the commission may exercise the same powers as a municipal housing and redevelopment authority established under sections 469.001 to 469.047 or other law.

History: *1987 c 291 s 80*

469.080 PLYMOUTH.

The city of Plymouth may establish a port authority that has the same powers as a port authority established pursuant to section 469.049. If the city establishes a port authority, the city shall exercise all the powers granted to a city by sections 469.048 to 469.068 or other law.

History: *1987 c 291 s 81*

469.081 RED WING.

Subdivision 1. **Establishment.** The city of Red Wing may, by adoption of an enabling resolution in compliance with the procedural requirements of subdivision 3, establish a port authority commission that, subject to the provisions of subdivision 2, has the same powers as a port authority established under section 469.049 or other law, and a housing and redevelopment authority established under sections 469.001 to 469.047 or other law, and shall constitute an "agency" that may administer one or more municipal development districts under section 469.110. If the city establishes a port authority commission under this section, the city shall exercise all the powers relating to a port authority granted to any city by sections 469.048 to 469.068 or other law, and all powers relating to a housing and redevelopment authority granted to any city by sections 469.001 to 469.047 or other law.

Subd. 2. **Limitation of powers.** (a) The enabling resolution may impose the following limitations upon the actions of the port authority:

(1) that the port authority shall not exercise any specified powers contained in sections 469.001 to 469.047 and 469.048 to 469.068 or that the port authority shall not exercise any powers without the prior approval of the city council;

(2) that, except when previously pledged by the port authority, the city council may, by resolution, require the port authority to transfer any portion of the reserves generated by activities of the port authority which the city council determines is not necessary for the successful operation of the port authority, to the city general fund, to be used for any general purpose of the city;

(3) that the sale of all bonds or obligations issued by the port authority be approved by the city council before issuance;

(4) that the port authority follow the budget process for city departments as provided by the city and as implemented by the city council and mayor;

(5) that all official actions of the port authority must be consistent with the adopted comprehensive plan of the city, and any official controls implementing the comprehensive plan;

(6) that the port authority submit to the city council for approval by resolution any proposed project as defined in section 469.174, subdivision 8;

(7) that the port authority submit all planned activities for influencing the action of any other governmental agency, subdivision, or body to the city council for approval;

(8) that the port authority submit its administrative structure and management practices to the city council for approval; and

(9) any other limitation or control established by the city council by the enabling resolution.

(b) The enabling resolution may be modified at any time, subject to paragraph (e), and provided that any modification is made in accordance with the procedural requirements of subdivision 3.

(c) Without limiting the right of the port authority to petition the city council at any time, each year, within 60 days of the anniversary date of the initial adoption of the enabling resolution, the port authority shall submit to the city council a report stating whether and how the enabling resolution should be modified. Within 30 days of receipt of the recommendation, the city council shall review the enabling resolution, consider the recommendations of the port authority, and make any modifications it considers appropriate; provided that any modification shall be made in accordance with the procedural requirements of subdivision 3.

(d) A determination by the city council that the limitations imposed under this section have been complied with by the port authority shall be conclusive.

(e) Limitations imposed under this section must not be applied in a manner that impairs the security of any bonds issued or contracts executed prior to the imposition of the limitation. The city council shall not modify any limitations in effect at the time any bonds or obligations are issued or contracts executed to the detriment of the holder of the bonds or obligations or any contracting party.

Subd. 3. **Procedural requirement.** (a) The creation of a port authority by the city of Red Wing must be by written resolution known as the enabling resolution. Prior to adoption of the enabling resolution, the city council shall conduct a public hearing. Notice of the time and place of hearing, a statement of the purpose of the hearing, and a summary of the resolution must be published in a newspaper of general circulation within the city once a week for two consecutive weeks. The first publication must appear not more than 30 days from the date of the public hearing.

(b) All modifications to the enabling resolution must be by written resolution and must be adopted after notice is given and a public hearing conducted as required for the original adoption of the enabling resolution.

Subd. 4. **Name.** Notwithstanding any law to the contrary, the city may choose the name of the commission.

Subd. 5. **Removal of commissioners for cause.** A commissioner of the port authority may be removed by the city council for inefficiency, neglect of duty, or misconduct in office. A commissioner shall be removed only after a hearing. A copy of the charges must be given to the commissioner at least ten days before the hearing. The commissioner must be given an opportunity to be heard in person or by counsel at the hearing. When written charges have been submitted against a commissioner, the city council may temporarily suspend the commissioner. If the city council finds that those charges have not been substantiated, the commissioner shall be immediately reinstated. If a commissioner is removed, a record of the proceedings, together with the charges and findings, shall be filed in the office of the city clerk.

History: *1987 c 291 s 82*

469.0813 ROSEMOUNT; PORT AUTHORITY.

Subdivision 1. **Establishment; powers.** The city of Rosemount may, by adoption of an enabling resolution in compliance with the procedural requirements of subdivision 3, establish a port authority commission that, subject to the provisions of subdivision 2, has the same powers as a port authority established under section 469.049 or other law, and a housing and redevelopment authority established under sections 469.001 to 469.047 or other law, and shall constitute an "agency" that may administer one or more municipal development districts under section 469.110. If the city establishes a port authority commission under this section, the city shall exercise all the powers relating to a port authority granted to any city by sections 469.048 to 469.068 or other law, and all powers relating to a housing and redevelopment authority granted to any city by sections 469.001 to 469.047 or other law.

Subd. 2. **Limitation of powers.** (a) The enabling resolution may impose the following limitations upon the actions of the port authority:

(1) that the port authority shall not exercise any specified powers contained in sections 469.001 to 469.047 and 469.048 to 469.068 or that the port authority shall not exercise any powers without the prior approval of the city council;

(2) that, except when previously pledged by the port authority, the city council may, by resolution, require the port authority to transfer any portion of the reserves generated by activities of the port authority which the city council determines is not necessary for the successful operation of the port authority, to the city general fund, to be used for any general purpose of the city;

(3) that the sale of all bonds or obligations issued by the port authority be approved by the city council before issuance;

(4) that the port authority follow the budget process for city departments as provided by the city and as implemented by the city council and mayor;

(5) that all official actions of the port authority must be consistent with the adopted comprehensive plan of the city, and any official controls implementing the comprehensive plan;

(6) that the port authority submit to the city council for approval by resolution any proposed project as defined in section 469.174, subdivision 8;

(7) that the port authority submit all planned activities for influencing the action of any other governmental agency, subdivision, or body to the city council for approval;

(8) that the port authority submit its administrative structure and management practices to the city council for approval; and

(9) any other limitation or control established by the city council by the enabling resolution.

(b) The enabling resolution may be modified at any time, subject to paragraph (e), and provided that any modification is made in accordance with the procedural requirements of subdivision 3.

(c) Without limiting the right of the port authority to petition the city council at any time, each year, within 60 days of the anniversary date of the initial adoption of the enabling resolution, the port authority shall submit to the city council a report stating whether and how the enabling resolution should be modified. Within 30 days of receipt of the recommendation, the city council shall review the enabling resolution, consider the recommendations of the port authority, and make any modifications it considers appropriate; provided that any modification shall be made in accordance with the procedural requirements of subdivision 3.

(d) A determination by the city council that the limitations imposed under this section have been complied with by the port authority shall be conclusive.

(e) Limitations imposed under this section must not be applied in a manner that impairs the security of any bonds issued or contracts executed prior to the imposition of the limitation. The city council shall not modify any limitations in effect at the time any bonds or obligations

are issued or contracts executed to the detriment of the holder of the bonds or obligations or any contracting party.

Subd. 3. **Procedural requirement.** (a) The creation of a port authority by the city of Rosemount must be by written resolution known as the enabling resolution. Prior to adoption of the enabling resolution, the city council shall conduct a public hearing. Notice of the time and place of hearing, a statement of the purpose of the hearing, and a summary of the resolution must be published in a newspaper of general circulation within the city once a week for two consecutive weeks. The first publication must appear not more than 30 days from the date of the public hearing.

(b) All modifications to the enabling resolution must be by written resolution and must be adopted after notice is given and a public hearing conducted as required for the original adoption of the enabling resolution.

Subd. 4. **Name.** Notwithstanding any law to the contrary, the city may choose the name of the commission.

Subd. 5. **Removal of commissioners for cause.** A commissioner of the port authority may be removed by the city council for inefficiency, neglect of duty, or misconduct in office. A commissioner shall be removed only after a hearing. A copy of the charges must be given to the commissioner at least ten days before the hearing. The commissioner must be given an opportunity to be heard in person or by counsel at the hearing. When written charges have been submitted against a commissioner, the city council may temporarily suspend the commissioner. If the city council finds that those charges have not been substantiated, the commissioner shall be immediately reinstated. If a commissioner is removed, a record of the proceedings, together with the charges and findings, shall be filed in the office of the city clerk.

Subd. 6. **Effective date.** This section is effective for the city of Rosemount the day after compliance with section 645.021, subdivision 3, by the governing body of the city of Rosemount.

History: *1991 c 291 art 21 s 17*

469.082 ROSEVILLE; PORT AUTHORITY.

The governing body of the city of Roseville may exercise all the powers of a port authority provided by sections 469.048 to 469.068.

History: *1987 c 291 s 83*

469.083 ST. CLOUD.

The St. Cloud City Council may exercise all the powers of a port authority provided by sections 469.048 to 469.068.

History: *1987 c 291 s 84*

469.084 ST. PAUL.

Subdivision 1. **Powers related to recreational facilities.** Notwithstanding any law to the contrary, the port authority of the city of St. Paul may plan for, acquire by condemnation, purchase, or otherwise, construct, improve, operate, directly, by lease or otherwise, and maintain parks and other recreation facilities anywhere within its port district. The port authority shall establish rules on the use of the rivers, lakes, parks and recreation facilities either alone or in cooperation with the federal government or its agencies, the city of St. Paul, the state, or an agency or political subdivision of the state.

Subd. 2. **No police power.** The port authority does not have police power except as provided by subdivisions 1 to 8.

Subd. 3. **Consent for city land.** The port authority must not take lands owned, controlled, or used by the city of St. Paul without consent of the city council.

Subd. 4. **Port jurisdiction.** For all other recreation purposes the port authority has jurisdiction over the use of all the navigable rivers or lakes and all the parks and recreation facilities abutting the rivers and lakes.

Subd. 5. **Expenditures; bonds.** The port authority may spend port authority money to carry out subdivisions 1 to 8 and issue bonds for the purposes in subdivisions 1 to 8 according to either section 469.060 or 469.061.

Subd. 6. **City, county plan approval.** The port authority, prior to taking action under subdivisions 1 to 8, shall submit for approval plans to acquire, improve, and operate parks and recreation facilities along navigable rivers and lakes within its port district to the city of St. Paul and shall submit the plans for all areas located within Ramsey County, whether located within or without the port district, to the county for approval.

Subd. 7. **Revenue bonds; sale; rate of interest.** Notwithstanding any law to the contrary, the sale of revenue bonds issued by the port authority under section 469.061, shall be at public sale under section 475.60, or in accordance with the procedures set forth in sections 469.152 to 469.165. The bonds may be sold in the manner and for the price that the port authority determines to be for the best interest of the port authority. A sale must not be made at a price so low as to cause the average annual rate of interest on the money received from the sale to exceed eight percent per year computed by adding the amount of the discount to the total amount of interest payable on all obligations of the series to their stated maturity dates. The bonds may be made callable. If issued as callable, the bonds may be refunded.

Subd. 8. **Relation to industrial development provisions.** Notwithstanding any law to the contrary, the port authority of the city of St. Paul, under sections 469.048 to 469.068 and this section, may do what a redevelopment agency may do or must do under sections 469.152

to 469.165 to further any of the purposes of sections 469.048 to 469.068 and subdivisions 1 to 8. The port authority may use its powers and duties under sections 469.048 to 469.068 and subdivisions 1 to 8 to further the purposes of sections 469.152 to 469.165. The powers and duties in subdivisions 1 to 8 are in addition to the powers and duties of the port authority under sections 469.048 to 469.068, and under sections 469.152 to 469.165. The port authority may use its powers for industrial development or to establish industrial development districts. If the term "industrial" is used in relation to industrial development purposes under sections 469.048 to 469.068, the term includes "economic" and "economic development."

Subd. 9. **May join in supplying small business capital.** Notwithstanding any contrary law, the port authority of the city of St. Paul may participate with public or private corporations or other entities, whose purpose is to provide venture capital to small businesses that have facilities located or to be located in the port district. For that purpose the port authority may use not more than ten percent of available annual net income or $400,000 annually, whichever is less, to acquire or invest in securities of, and enter into financing arrangements and related agreements with, the corporations or entities. The participation by the port authority must not exceed in any year 25 percent of the total amount of funds provided for venture capital purposes by all of the participants. The corporation or entity shall report in writing each month to the commissioners of the port authority all investment and other action taken by it since the last report. Funds contributed to the corporation or entity must be invested pro rata with each contributor of capital taking proportional risks on each investment. As used in this subdivision, the term "small business" has the meaning given it in section 645.445, subdivision 2.

Subd. 10. **Recreation facilities on Mississippi River.** The port authority of the city of Saint Paul has jurisdiction over the use of the Mississippi River for recreation purposes within its port district and may acquire and may spend port authority money for lands abutting the river within the port district to construct, operate directly, by lease or otherwise, and maintain recreation facilities. The authority shall establish rules on the use of the river and abutting lands, either individually, or in cooperation with the federal government or its agencies, the city of Saint Paul, the state, or a state agency, or political subdivision.

Subd. 11. **Revenue bonds.** Notwithstanding any law or charter provision to the contrary, an issue of revenue bonds authorized by the port authority of the city of St. Paul shall be issued only with the consent of the St. Paul City Council in a resolution. Notwithstanding any law or charter provision to the contrary, a project to be financed by the port authority of the city of St. Paul by proceeds of revenue bonds shall be financed only with the consent of the St. Paul City Council in a resolution. An existing obligation, contract, collective bargaining or other agreement, fringe benefit plan, or covenant made or entered into by the St. Paul Port Authority is not impaired by this subdivision.

Subd. 12. **City supervision of authority employees.** Notwithstanding any law or charter provision to the contrary, the council may, by resolution adopted by a majority of the council, place any employee of the port authority under the direction, supervision, or control of the mayor or a department of the city.

Subd. 13. **Investment in commercial paper.** Notwithstanding section 118A.04 or other law, the port authority of the city of St. Paul may invest its funds in commercial paper of prime quality in the same manner as the state board of investment may invest money not currently needed.

Subd. 14. **Bond for treasurer and assistant treasurer.** The treasurer and assistant treasurer of the port authority of the city of Saint Paul shall give bond to the state in sums not to exceed $25,000 and $10,000 respectively. The bonds must be conditioned for the faithful discharge of their duties. The bonds must be approved as to both form and surety by the port authority and must be filed with its secretary. The amount of the bonds must be set at least annually by the port authority.

Subd. 15. **Bid law exemption.** If the port authority receives real property through termination of a revenue agreement, as defined in section 469.153, subdivision 10, or as the result of refinancing and contracts with a corporation to operate the property, the corporation may sell, purchase, or rent supplies, materials, or equipment, or construct, alter, expand, repair, or maintain the real property without regard to section 471.345.

History: *1987 c 291 s 85; 1991 c 98 s 1; 1996 c 399 art 2 s 12; 2000 c 286 s 1,2*

469.085 SOUTH SAINT PAUL.

The South Saint Paul City Council may exercise the powers of a port authority, including the port authority of the city of Saint Paul, under sections 469.048 to 469.068.

History: *1987 c 291 s 86*

469.0855 WABASHA.

Subdivision 1. **Establishment.** The city of Wabasha may establish a port authority commission that has the same powers as a port authority established under section 469.049 or other law. If the city establishes a port authority commission, the city shall exercise all the powers relating to the port authority granted to a city by sections 469.048 to 469.068 or other law. Notwithstanding any law to the contrary, the city may choose the name of the commission.

Subd. 2. **Municipal housing and redevelopment authority.** If the city of Wabasha establishes a port authority commission under subdivision 1, the commission may exercise the same powers as a municipal housing and redevelopment authority established under sections 469.001 to 469.047 or other law. The city shall then exercise all the powers relating to the municipal housing and redevelopment authority granted to a city by sections 469.001 to 469.047

or other law.

History: *2005 c 61 s 1*

469.0856 ORTONVILLE.

The city of Ortonville may establish a port authority commission that has the same powers as a port authority established under section 469.049 or other law. If the city establishes a port authority commission, the city shall exercise all the powers relating to the port authority granted to a city by sections 469.048 to 469.068 or other law. Notwithstanding any law to the contrary, the city may choose the name of the commission.

History: *2005 c 61 s 2*

469.086 WADENA.

The city of Wadena may establish a port authority commission that has the same powers as a port authority established under section 469.049 or other law. If the city establishes a port authority commission, the city shall exercise all the powers relating to the port authority granted to a city by sections 469.048 to 469.068 or other law. Notwithstanding any law to the contrary, the city may choose the name of the commission and may appoint a seven-member commission.

History: *1987 c 291 s 87*

469.087 WARROAD.

The city of Warroad may establish a port authority commission that has the same powers as a port authority established under section 469.049 or other law. If the city establishes a port authority commission, the city shall exercise all the powers relating to the port authority granted to a city by sections 469.048 to 469.068 or other law. Notwithstanding any law to the contrary, the city may choose the name of the commission and may appoint a seven-member commission.

History: *1987 c 291 s 88*

469.088 WHITE BEAR LAKE.

The governing body of the city of White Bear Lake may exercise all the powers of a port authority provided by sections 469.048 to 469.068.

History: *1987 c 291 s 89*

469.089 WINONA.

Subdivision 1. **Establishment.** The Winona City Council may by resolution establish the Port Authority of Winona.

Subd. 2. **Port authority law applies.** Sections 469.048 to 469.068 apply to the Winona Port Authority and to the city of Winona. The sections apply just as they apply to a port authority

established by section 469.049, except a seaway port authority, and to the port authority's city, except as otherwise provided in this section. For the Winona Port Authority, when "industrial" is used in the context of industrial development district under sections 469.048 to 469.068, "industrial" or "industrial development" includes "economic" or "economic development." Sections 469.056, subdivision 1, 469.067, and 469.053, subdivision 6, and the per meeting payment provision of section 469.050, subdivision 5, do not apply to the Winona Port Authority.

Subd. 3. **City approval.** Action taken by the Winona Port Authority under section 469.058, 469.059, subdivision 4, or 469.061, must be approved by city council resolution to take effect.

Subd. 4. **Staff; budget.** The city of Winona, by resolution of its city council, may provide the port authority with personnel and staff, temporarily, provisionally, or permanently on terms and conditions it considers appropriate. In the same way, the city may appropriate and budget the funds to administer the port authority as the city considers necessary and appropriate. The money must be budgeted, used, and accounted for according to the charter and ordinances of the city.

Subd. 5. **Marginal property.** A port authority's decision that property it seeks is marginal under section 469.058 is prima facie evidence in eminent domain proceedings that the property is marginal. The decision must be made in a resolution. The resolution must state the characteristics that the authority thinks makes the property marginal. The port authority resolution must then be approved by city council resolution.

Subd. 6. **Industrial development powers.** The port authority has the powers granted to port authorities by sections 469.152 to 469.165. The powers may be exercised within and outside its corporate limits. The exercise of the powers is subject to approval by resolution of the city council.

Subd. 7. **Bond interest.** Revenue bonds issued by the port authority may be negotiated and sold at a price resulting in an average annual net interest rate on the bonds of not more than seven percent per year computed to the stated maturities.

Subd. 8. **No assessments; improvement districts.** The port authority must not levy special assessments or establish local improvement districts. The city of Winona, or its port authority with the approval by resolution of the city council, may exercise the powers in section 471.191 to acquire and to improve recreational land, buildings, and facilities within or outside their corporate limits.

Subd. 9. **Surplus funds.** On or before October 15 in each year the port authority shall report to the city council the amount of surplus funds that are in its judgment available for transfer to the sinking fund for any general obligation bonds of the authority, to reduce tax levies to pay the bonds. The council shall then decide by resolution what amount to transfer.

Subd. 10. **Wisconsin real property.** The port authority may purchase or lease real property in Wisconsin for barge fleeting or for recreation activities or for both.

Subd. 11. **Transfer of city property to port.** The city of Winona may transfer, with or without consideration and on other terms the city council considers desirable, its interest in any real property, including fee title, to the port authority of Winona. The transfer must be authorized by ordinance. The ordinance must contain the following:

(1) the general location and the specific legal description of the property;

(2) a finding by the city council that the real property is marginal under section 469.058, supported by reference to one or more of the conditions listed in section 469.048, subdivision 5;

(3) a statement as to the consideration, or absence of it, to be received by the city at the time of transfer; and

(4) other information considered appropriate by the city council.

A conveyance of fee title under this subdivision must be by quitclaim deed.

History: *1987 c 291 s 90*

ECONOMIC DEVELOPMENT AUTHORITIES

469.090 DEFINITIONS.

Subdivision 1. **Generally.** In sections 469.090 to 469.108, the terms defined in this section have the meanings given them herein, unless the context indicates a different meaning.

Subd. 2. **Authority.** "Authority" means an economic development authority.

Subd. 3. **City.** "City" means a home rule charter or statutory city.

Subd. 4. **Development.** "Development" includes redevelopment, and "developing" includes redeveloping.

Subd. 5. **Cost of redevelopment.** "Cost of redevelopment" means, with respect to an economic development district project, the cost of:

(1) acquiring property, whether by purchase, lease, condemnation, or otherwise;

(2) demolishing or removing structures or other improvements on acquired properties;

(3) correcting soil deficiencies necessary to develop or use the property for an appropriate use as determined by the authority;

(4) constructing or installing public improvements, including streets, roads, and utilities;

(5) providing relocation benefits to the occupants of acquired properties;

(6) planning, engineering, legal, and other services necessary to carry out the functions listed in clauses (1) to (5); and

(7) the allocated administrative expenses of the authority for the project.

History: *1987 c 291 s 91*

469.091 ECONOMIC DEVELOPMENT AUTHORITY.

Subdivision 1. **Establishment.** A city may, by adopting an enabling resolution in compliance with the procedural requirements of section 469.093, establish an economic development authority that, subject to section 469.092, has the powers contained in sections 469.090 to 469.108 and the powers of a housing and redevelopment authority under sections 469.001 to 469.047 or other law, and of a city under sections 469.124 to 469.134 or other law. If the economic development authority exercises the powers of a housing and redevelopment authority contained in sections 469.001 to 469.047 or other law, the city shall exercise the powers relating to a housing and redevelopment authority granted to a city by sections 469.001 to 469.047 or other law.

Subd. 2. **Characteristics.** An economic development authority is a public body corporate and politic and a political subdivision of the state with the right to sue and be sued in its own name. An authority carries out an essential governmental function when it exercises its power, but the authority is not immune from liability because of this.

Subd. 3. **Unpaid officers, directors, and agents; liability.** Section 317A.257 applies to an economic development authority or to a nonprofit corporation exercising the powers of an economic development authority.

History: *1987 c 291 s 92; 1994 c 623 art 5 s 2*

469.092 LIMIT OF POWERS.

Subdivision 1. **Resolution.** The enabling resolution may impose the following limits upon the actions of the authority:

(1) that the authority must not exercise any specified powers contained in sections 469.001 to 469.047, 469.090 to 469.108, and 469.124 to 469.134 or that the authority must not exercise any powers without the prior approval of the city council;

(2) that, except when previously pledged by the authority, the city council may by resolution require the authority to transfer any portion of the reserves generated by activities of the authority that the city council determines is not necessary for the successful operation of the authority to the debt service fund of the city, to be used solely to reduce tax levies for bonded indebtedness of the city;

(3) that the sale of all bonds or obligations issued by the authority be approved by the city council before issuance;

(4) that the authority follow the budget process for city departments as provided by the city and as implemented by the city council and mayor;

(5) that all official actions of the authority must be consistent with the adopted comprehensive plan of the city, and any official controls implementing the comprehensive plan;

(6) that the authority submit all planned activities for influencing the action of any other governmental agency, subdivision, or body to the city council for approval;

(7) that the authority submit its administrative structure and management practices to the city council for approval; and

(8) any other limitation or control established by the city council by the enabling resolution.

Subd. 2. **Modification of resolution.** The enabling resolution may be modified at any time, subject to subdivision 5, and provided that any modification is made in accordance with this section.

Subd. 3. **Report on resolution.** Without limiting the right of the authority to petition the city council at any time, each year, within 60 days of the anniversary date of the first adoption of the enabling resolution, the authority shall submit to the city council a report stating whether and how the enabling resolution should be modified. Within 30 days of receipt of the recommendation, the city council shall review the enabling resolution, consider the recommendations of the authority, and make any modification it considers appropriate. Modifications must be made in accordance with the procedural requirements of section 469.093.

Subd. 4. **Compliance.** The city council's determination that the authority has complied with the limitations imposed under this section is conclusive.

Subd. 5. **Limits; security.** Limits imposed under this section must not be applied in a manner that impairs the security of any bonds issued or contracts executed before the limit is imposed. The city council must not modify any limit in effect at the time any bonds or obligations are issued or contracts executed to the detriment of the holder of the bonds or obligations or any contracting party.

History: *1987 c 291 s 93*

469.093 PROCEDURAL REQUIREMENT.

Subdivision 1. **Enabling resolution.** The creation of an authority by a city must be by written resolution referred to as the enabling resolution. Before adopting the enabling resolution, the city council shall conduct a public hearing. Notice of the time and place of hearing, a statement of the purpose of the hearing, and a summary of the resolution must be published in a newspaper of general circulation within the city once a week for two consecutive weeks. The first publication must appear not more than 30 days from the date of the public hearing.

Subd. 2. **Modifications.** All modifications to the enabling resolution must be by written resolution and must be adopted after notice is given and a public hearing conducted as required

for the original adoption of the enabling resolution.

History: *1987 c 291 s 94*

469.094 TRANSFER OF AUTHORITY.

Subdivision 1. **Economic development, housing, redevelopment powers.** The city may, by ordinance, divide the economic development, housing, and redevelopment powers granted under sections 469.001 to 469.047 and 469.090 to 469.108 between the economic development authority and any other authority or commission established under statute or city charter for economic development, housing, or redevelopment as provided in subdivision 2.

Subd. 2. **Project control, authority, operation.** The city may, by resolution, transfer the control, authority, and operation of any project as defined in section 469.174, subdivision 8, or any other program or project authorized by sections 469.001 to 469.047 or 469.124 to 469.134 located within the city, from the governmental agency or subdivision that established the project to the economic development authority. The city council may also require acceptance of control, authority, and operation of the project by the economic development authority. The economic development authority may exercise all of the powers that the governmental unit establishing the project could exercise with respect to the project.

When a project or program is transferred to the economic development authority, the authority shall covenant and pledge to perform the terms, conditions, and covenants of the bond indenture or other agreements executed for the security of any bonds issued by the governmental subdivision that initiated the project or program. The economic development authority may exercise all of the powers necessary to perform the terms, conditions, and covenants of any indenture or other agreements executed for the security of the bonds and shall become obligated on the bonds when the project or program is transferred as provided in this subdivision.

If the city transfers a housing project or a housing development project to the economic development authority, the city must transfer all housing development and management powers relating to that specific project to the authority.

Subd. 3. **Transfer of personnel.** Notwithstanding any other law or charter provision to the contrary, the city council may, by resolution, place any employees of the housing and redevelopment authority under the direction, supervision, or control of the economic development authority. The placement of any employees under the direction, supervision, or control of the economic development authority does not affect the rights of any employees of the housing and redevelopment authority, including any rights existing under a collective bargaining agreement or fringe benefit plan. The employees shall become employees of the economic development authority.

History: *1987 c 291 s 95; 1990 c 532 s 11,12*

469.095 COMMISSIONERS; APPOINTMENT, TERMS, VACANCIES, PAY, REMOVAL.

Subdivision 1. **Commissioners.** Except as provided in subdivision 2, paragraph (d), an economic development authority shall consist of either three, five, or seven commissioners who shall be appointed after the enabling resolution provided for in section 469.093 becomes effective. The resolution must indicate the number of commissioners constituting the authority.

Subd. 2. **Appointment, terms; vacancies.** (a) Three-member authority: the commissioners constituting a three-member authority, one of whom must be a member of the city council, shall be appointed by the mayor with the approval of the city council. Those initially appointed shall be appointed for terms of two, four, and six years, respectively. Thereafter all commissioners shall be appointed for six-year terms.

(b) Five-member authority: the commissioners constituting a five-member authority, two of whom must be members of the city council, shall be appointed by the mayor with the approval of the city council. Those initially appointed shall be appointed for terms of two, three, four, five, and six years respectively. Thereafter all commissioners shall be appointed for six-year terms.

(c) Seven-member authority: the commissioners constituting a seven-member authority, two of whom must be members of the city council, shall be appointed by the mayor with the approval of the city council. Those initially appointed shall be appointed for terms of one, two, three, four, and five years respectively and two members for six years. Thereafter all commissioners shall be appointed for six-year terms.

(d) The enabling resolution may provide that the members of the city council shall serve as the commissioners.

(e) The enabling resolution may provide for the appointment of members of the city council in excess of the number required in paragraphs (a), (b), and (c).

(f) A vacancy is created in the membership of an authority when a city council member of the authority ends council membership. A vacancy for this or another reason must be filled for the balance of the unexpired term, in the manner in which the original appointment was made. The city council may set the term of the commissioners who are members of the city council to coincide with their term of office as members of the city council.

Subd. 3. **Increase in commission members.** An authority may be increased from three to five or seven members, or from five to seven members by a resolution adopted by the city council following the procedure provided for modifying the enabling resolution in section 469.093.

Subd. 4. **Compensation and reimbursement.** A commissioner, including the president, shall be paid for attending each regular or special meeting of the authority in an amount to be determined by the city council. In addition to receiving pay for meetings, the commissioners may be reimbursed for actual expenses incurred in doing official business of the authority. All money

paid for compensation or reimbursement must be paid out of the authority's budget.

Subd. 5. **Removal for cause.** A commissioner may be removed by the city council for inefficiency, neglect of duty, or misconduct in office. A commissioner shall be removed only after a hearing. A copy of the charges must be given to the commissioner at least ten days before the hearing. The commissioner must be given an opportunity to be heard in person or by counsel at the hearing. When written charges have been submitted against a commissioner, the city council may temporarily suspend the commissioner. If the city council finds that those charges have not been substantiated, the commissioner shall be immediately reinstated. If a commissioner is removed, a record of the proceedings, together with the charges and findings, shall be filed in the office of the city clerk.

History: *1987 c 291 s 96*

469.096 OFFICERS; DUTIES; ORGANIZATIONAL MATTERS.

Subdivision 1. **Bylaws, rules, seal.** An authority may adopt bylaws and rules of procedure and shall adopt an official seal.

Subd. 2. **Officers.** An authority shall elect a president, a vice-president, a treasurer, a secretary, and an assistant treasurer. The authority shall elect the president, treasurer, and secretary annually. A commissioner must not serve as president and vice-president at the same time. The other offices may be held by the same commissioner. The offices of secretary and assistant treasurer need not be held by a commissioner.

Subd. 3. **Duties and powers.** The officers have the usual duties and powers of their offices. They may be given other duties and powers by the authority.

Subd. 4. **Treasurer's duties.** The treasurer:

(1) shall receive and is responsible for authority money;

(2) is responsible for the acts of the assistant treasurer;

(3) shall disburse authority money by check only;

(4) shall keep an account of the source of all receipts, and the nature, purpose, and authority of all disbursements; and

(5) shall file the authority's detailed financial statement with its secretary at least once a year at times set by the authority.

Subd. 5. **Assistant treasurer.** The assistant treasurer has the powers and duties of the treasurer if the treasurer is absent or disabled.

Subd. 6. **Treasurer's bond.** The treasurer shall give bond to the state conditioned for the faithful discharge of official duties. The bond must be approved as to form and surety by the

authority and filed with the secretary. The bond must be for twice the amount of money likely to be on hand at any one time, as determined at least annually by the authority provided that the bond must not exceed $300,000.

Subd. 7. **Public money.** Authority money is public money.

Subd. 8. **Checks.** An authority check must be signed by the treasurer and one other officer named by the authority in a resolution. The check must state the name of the payee and the nature of the claim that the check is issued for.

Subd. 9. **Financial statement.** The authority's detailed financial statement must show all receipts and disbursements, their nature, the money on hand, the purposes to which the money on hand is to be applied, the authority's credits and assets, and its outstanding liabilities in a form required for the city's financial statements. The authority shall examine the statement together with the treasurer's vouchers. If the authority finds that the statement and vouchers are correct, it shall approve them by resolution and enter the resolution in its records.

History: *1987 c 291 s 97*

469.097 EMPLOYEES; SERVICES; SUPPLIES.

Subdivision 1. **Employees.** An economic development authority may employ an executive director, a chief engineer, other technical experts and agents, and other employees as it may require, and determine their duties, qualifications, and compensation.

Subd. 2. **Contract for services.** The authority may contract for the services of consultants, agents, public accountants, and other persons needed to perform its duties and exercise its powers.

Subd. 3. **Legal services.** The authority may use the services of the city attorney or hire a general counsel for its legal needs. The city attorney or general counsel, as determined by the authority, is its chief legal advisor.

Subd. 4. **Supplies.** The authority may purchase the supplies and materials it needs to carry out sections 469.090 to 469.108.

Subd. 5. **City purchasing.** An authority may use the facilities of its city's purchasing department in connection with construction work and to purchase equipment, supplies, or materials.

Subd. 6. **City facilities, services.** A city may furnish offices, structures and space, and stenographic, clerical, engineering, or other assistance to its authority.

Subd. 7. **Delegation power.** The authority may delegate to one or more of its agents or employees powers or duties as it may deem proper.

History: *1987 c 291 s 98*

469.098 CONFLICT OF INTEREST.

Subdivision 1. **Disclosure; criminal penalty.** (a) Before taking an action or making a decision which could substantially affect the commissioner's or an employee's financial interests or those of an organization with which the commissioner or an employee is associated, a commissioner or employee of an authority shall:

(1) prepare a written statement describing the matter requiring action or decision and the nature of the potential conflict of interest; and

(2) submit the statement to the commissioners of the authority.

(b) The disclosure under paragraph (a) shall be entered upon the minutes of the authority at its next meeting. The disclosure statement must be submitted no later than one week after the employee or commissioner becomes aware of the potential conflict of interest. However, no disclosure statement is required if the effect on the commissioner or employee of the decision or act will be no greater than on other members of the business, profession, or occupation or if the effect on the organization with which the commissioner or employee is affiliated is indirect, remote, and insubstantial.

(c) A potential conflict of interest is present if the commissioner or employee knows or has reason to know that the organization with which the commissioner or employee is affiliated is, or is reasonably likely to become, a participant in a project or development which will be affected by the action or decision.

(d) Any individual who knowingly fails to submit a statement required by this subdivision or submits a statement which the individual knows contains false information or omits required information is guilty of a misdemeanor.

Subd. 2. **Effect of disclosure; criminal penalty.** (a) If an employee has a potential conflict of interest, the employee's superior shall immediately assign the matter to another employee who does not have a potential conflict of interest.

(b) A commissioner who has a potential conflict of interest shall not attempt to influence an employee in any matter related to the action or decision in question, shall not take part in the action or decision, and shall not be counted toward a quorum during the portion of any meeting of the authority in which the action or decision is to be considered.

(c) Any individual who knowingly violates this subdivision is guilty of a misdemeanor.

Subd. 3. **Conflicts forbidden; criminal penalty.** A commissioner or employee of an authority who knowingly takes part in any manner in making any sale, lease, or contract in the commissioner's or employee's official capacity in which the commissioner or employee has a personal financial interest is guilty of a misdemeanor.

Subd. 4. **Agent or attorney.** For one year after termination of a position as a commissioner or employee of an authority, no former commissioner or former employee of an authority shall appear personally before any court or governmental department or agency as agent or attorney for anyone other than the authority in connection with any proceeding, application, request for ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which the authority is substantially interested, and with respect to which the commissioner or employee took any action or made any decision as a commissioner or employee of the authority at any time within a period of one year prior to the termination of that position.

Subd. 5. **Limitations.** With respect to each program established by the authority to provide financial assistance or financing for real property other than rental assistance programs, an employee or commissioner may not receive such financial assistance or financing more than once.

Subd. 6. **Injunction.** The county attorney may seek an injunction in the district court to enforce the provisions of this section.

Subd. 7. **Exceptions.** The exceptions in section 471.88 apply to this section.

History: *1987 c 291 s 99; 2008 c 197 s 1*

469.099 DEPOSITORIES; DEFAULT; COLLATERAL.

Subdivision 1. **Named; bond.** Every two years an authority shall name national or state banks within the state as depositories. Before acting as a depository, a named bank shall give the authority a bond approved as to form and surety by the authority. The bond must be conditioned for the safekeeping and prompt repayment of deposits. The amount of bond must be at least equal to the maximum sums expected to be deposited at any one time.

Subd. 2. **One bank account.** An authority may deposit all its money from any source in one bank account.

Subd. 3. **Default; collateral.** When authority funds are deposited by the treasurer in a bonded depository, the treasurer and the surety on the treasurer's official bond are exempt from liability for the loss of the deposits because of the failure, bankruptcy, or other act or default of the depository. However, an authority may accept assignments of collateral from its depository to secure deposits just as assignments of collateral are permitted by law to secure deposits of the authority's city.

History: *1987 c 291 s 100*

469.100 OBLIGATIONS.

Subdivision 1. **Taxes and assessments prohibited.** An authority must not levy a tax or special assessment, except as otherwise provided in sections 469.090 to 469.108, pledge the credit

of the state or the state's municipal corporations or other subdivisions, or incur an obligation enforceable on property not owned by the authority.

Subd. 2. **Budget to city.** Annually, at a time fixed by charter, resolution, or ordinance of the city, an authority shall send its budget to its city's council. The budget must include a detailed written estimate of the amount of money that the authority expects to need from the city to do authority business during the next fiscal year. The needed amount is what is needed in excess of any expected receipts from other sources.

Subd. 3. **Fiscal year.** The fiscal year of the authority must be the same as the fiscal year of its city.

Subd. 4. **Report to city.** Annually, at a time and in a form fixed by the city council, the authority shall make a written report to the council giving a detailed account of its activities and of its receipts and expenditures during the preceding calendar year, together with additional matters and recommendations it deems advisable for the economic development of the city.

Subd. 5. **Audits.** The financial statements of the authority must be prepared, audited, filed, and published or posted in the manner required for the financial statements of the city that established the authority. The financial statements must permit comparison and reconciliation with the city's accounts and financial reports. The report must be filed with the state auditor by June 30 of each year. The auditor shall review the report and may accept it or, in the public interest, audit the books of the authority.

Subd. 6. **Compliance examinations.** At the request of the city or upon the auditor's initiative, the state auditor may make a legal compliance examination of the authority for that city. Each authority examined must pay the total cost of the examination, including the salaries paid to the examiners while actually engaged in making the examination. The state auditor may bill monthly or at the completion of the audit. All collections received must be deposited in the general fund.

History: *1987 c 291 s 101; 1989 c 335 art 4 s 88*

469.101 POWERS.

Subdivision 1. **Establishment.** An economic development authority may create and define the boundaries of economic development districts at any place or places within the city if the district satisfies the requirements of section 469.174, subdivision 10, except that the district boundaries must be contiguous, and may use the powers granted in sections 469.090 to 469.108 to carry out its purposes. First the authority must hold a public hearing on the matter. At least ten days before the hearing, the authority shall publish notice of the hearing in a daily newspaper of general circulation in the city. Also, the authority shall find that an economic development district

is proper and desirable to establish and develop within the city.

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, except to the extent that the property is subject to the sales and use tax under chapter 297A. 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.

Subd. 3. **Options.** The economic development authority may sign options to purchase, sell, or lease property.

Subd. 4. **Eminent domain.** The economic development authority may exercise the power of eminent domain under chapter 117, or under its city's charter to acquire property it is authorized to acquire by condemnation. The authority may acquire in this way property acquired by its owner by eminent domain or property already devoted to a public use only if its city's council approves. The authority may take possession of property to be condemned after it files a petition in condemnation proceedings describing the property. The authority may abandon the condemnation before taking possession.

Subd. 5. **Contracts.** The economic development authority may make contracts for the purpose of economic development within the powers given it in sections 469.090 to 469.108. The authority may contract or arrange with the federal government, or any of its departments, with persons, public corporations, the state, or any of its political subdivisions, commissions, or agencies, for separate or joint action, on any matter related to using the authority's powers or performing its duties. The authority may contract to purchase and sell real and personal property. An obligation or expense must not be incurred unless existing appropriations together with the reasonably expected revenue of the authority from other sources are sufficient to discharge the obligation or pay the expense when due. The state and its municipal subdivisions are not liable on the obligations.

Subd. 5a. **Construction contracts.** For all contracts for construction, alteration, repair, or maintenance work, the authority may award contracts to the vendor offering the best value, and

"best value" shall be defined and applied as set forth in sections 16C.02, subdivision 4a, and 16C.28, subdivision 1, paragraph (a), clause (2), and paragraph (c). Alternatively, the authority may award all contracts for construction, alteration, repair, or maintenance work to the lowest responsible bidder, reserving the right to reject any or all bids.

Subd. 6. **Limited partner.** The economic development authority may be a limited partner in a partnership whose purpose is consistent with the authority's purpose.

Subd. 7. **Rights; easements.** The economic development authority may acquire rights or an easement for a term of years or perpetually for development of an economic development district.

Subd. 8. **Supplies; materials.** The economic development authority may buy the supplies and materials it needs to carry out this section.

Subd. 9. **Receive public property.** The economic development authority may accept land, money, or other assistance, whether by gift, loan or otherwise, in any form from the federal or state government, or an agency of either, or a local subdivision of state government to carry out sections 469.090 to 469.108 and to acquire and develop an economic development district and its facilities under this section.

Subd. 10. **Development district authority.** The economic development authority may sell or lease land held by it for economic development in economic development districts. The authority may acquire, sell, or lease single or multiple tracts of land regardless of size, to be developed as a part of the economic development of the district under sections 469.090 to 469.108.

Subd. 11. **Foreign trade zone.** The economic development authority may apply to the board defined in United States Code, title 19, section 81a, for the right to use the powers provided in United States Code, title 19, sections 81a to 81u. If the right is granted, the authority may use the powers. One authority may apply with another authority.

Subd. 12. **Relation to other redevelopment powers.** The economic development authority may exercise powers and duties of a redevelopment agency under sections 469.152 to 469.165, for a purpose in sections 469.001 to 469.047 or 469.090 to 469.108. The authority may also use the powers and duties in sections 469.001 to 469.047 and 469.090 to 469.108 for a purpose in sections 469.152 to 469.165.

Subd. 13. **Public facilities.** The authority may operate and maintain a public parking facility or other public facility to promote development in an economic development district.

Subd. 14. **Government agent.** An economic development authority may cooperate with or act as agent for the federal or the state government, or a state public body, or an agency or instrumentality of a government or a public body to carry out sections 469.090 to 469.108 or any other related federal, state, or local law in the area of economic development district improvement.

Subd. 15. **Studies, analysis, research.** An authority may study and analyze economic development needs in the city, and ways to meet the needs. An authority may study the desirable patterns for land use for economic development and community growth and other factors affecting local economic development in the city and make the result of the studies available to the public and to industry in general. An authority may engage in research and disseminate information on economic development within the city.

Subd. 16. **Public relations.** To further an authorized purpose, an authority may (1) join an official, industrial, commercial, or trade association, or another organization concerned with the purpose, (2) have a reception of officials who may contribute to advancing the city and its economic development, and (3) carry out other public relations activities to promote the city and its economic development. Activities under this subdivision have a public purpose.

Subd. 17. **Accept public land.** An authority may accept conveyances of land from all other public agencies, commissions, or other units of government, if the land can be properly used by the authority in an economic development district, to carry out the purposes of sections 469.090 to 469.108.

Subd. 18. **Economic development.** An authority may carry out the law on economic development districts to develop and improve the lands in an economic development district to make it suitable and available for economic development uses and purposes. An authority may fill, grade, and protect the property and do anything necessary and expedient, after acquiring the property, to make it suitable and attractive as a tract for economic development. An authority may lease some or all of its lands or property and may set up local improvement districts in all or part of an economic development district.

Subd. 19. **Loans in anticipation of bonds.** After authorizing bonds under sections 469.102 and 469.103, an authority may borrow to provide money immediately required for the bond purpose. The loans must not exceed the amount of the bonds. The authority shall by resolution decide the terms of the loans. The loans must be evidenced by negotiable notes due in not more than 12 months from the date of the loan payable to the order of the lender or to bearer, to be repaid with interest from the proceeds of the bonds when the bonds are issued and delivered to the bond purchasers. The loan must not be obtained from any commissioner of the authority or from any corporation, association, or other institution of which an authority commissioner is a stockholder or officer.

Subd. 20. **Use of proceeds.** The proceeds of obligations issued by an authority under section 469.103 and temporary loans obtained under subdivision 19 may be used to make or purchase loans for economic development facilities that the authority believes will require financing. To make or purchase the loans, the authority may enter into loan and related agreements, both before and after issuing the obligations, with persons, firms, public or private corporations, federal

or state agencies, and governmental units under terms and conditions the authority considers appropriate. A governmental unit in the state may apply, contract for, and receive the loans. Chapter 475 does not apply to the loans.

Subd. 21. [Repealed, 2000 c 490 art 11 s 44]

Subd. 22. **Secondary market.** An authority may 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.

Subd. 23. **Supplying small business capital.** Notwithstanding any contrary law, the authority may participate with public or private corporations or other entities, whose purpose is to provide seed or venture capital to small businesses that have facilities located or to be located in the district. For that purpose the authority may use not more than ten percent of available annual net income or $1,000,000 annually, whichever is less, to invest in equities or acquire equity-type investments. These investments can be made directly in eligible corporations or entities or acquired through participation in a public or private seed or venture capital fund. The participation by the authority may not exceed in any year 25 percent of the total amount of funds provided for venture or seed capital purposes by all of the participants. The corporation, entity, or fund shall report in writing each six months to the commissioners of the authority all investments and other action taken by it since the last report. Funds contributed to the corporation or entity must be invested pro rata with each contributor of capital taking proportional risks on each investment. As used in this subdivision, the term "small business" has the meaning given it in section 645.445, subdivision 2.

History: *1987 c 291 s 102; 1988 c 580 s 5; 1991 c 295 s 2; 1992 c 363 art 1 s 13; 2000 c 418 art 2 s 7; 2006 c 214 s 20; 2007 c 148 art 3 s 30*

469.102 GENERAL OBLIGATION BONDS.

Subdivision 1. **Authority; procedure.** An economic development authority may issue general obligation bonds in the principal amount authorized by two-thirds majority vote of its city's council. The bonds may be issued in anticipation of income from any source. The bonds may be issued: (1) to secure funds needed by the authority to pay for acquired property or (2) for other purposes in sections 469.090 to 469.108. The bonds must be in the amount and form and bear interest at the rate set by the city council. Except as otherwise provided in sections 469.090 to 469.108, the issuance of the bonds is governed by chapter 475. The authority when issuing the bonds is a municipal corporation under chapter 475.

Subd. 2. **Detail; maturity.** The authority with the consent of its city's council shall set the

date, denominations, place of payment, form, and details of the bonds. The bonds must mature serially. The first installment is due in not more than three years and the last in not more than 30 years from the date of issuance.

Subd. 3. **Signatures; coupons; liability.** The bonds must be signed by the president of the authority, be attested by its secretary, and be countersigned by its treasurer; the signatures may be facsimile signatures. The interest coupons if any, must be attached to the bonds. The coupons must be executed and authenticated by the printed, engrossed, or lithographed facsimile signature of the authority's president and secretary. The bonds do not impose any personal liability on a member of the authority.

Subd. 4. **Pledge.** The bonds must be secured by the pledge of the full faith, credit, and resources of the issuing authority's city. The authority may pledge the full faith, credit, and resources of the city only if the city specifically authorizes the authority to do so. The city council must first decide whether the issuance of the bonds by the authority is proper in each case and if so, the amount of bonds to issue. The city council shall give specific consent in an ordinance to the pledge of the city's full faith, credit, and resources. The authority shall pay the principal amount of the bonds and the interest on it from taxes levied under this section to make the payment or from authority income from any source.

Subd. 5. **Tax levy.** An authority that issues bonds under this section, shall, before issuing them, levy a tax for each year on the taxable property in the authority's city. The tax must be for at least five percent more than the amount required to pay the principal and interest on the bonds as the principal and interest mature. The tax must be levied annually until the principal and interest are paid in full. After the bonds have been delivered to the purchasers, the tax must not be repealed until the debt is paid. After the bonds are issued, the authority need not take any more action to authorize extending, assessing, and collecting the tax. On or before September 15, the authority's secretary shall send a certified copy of the levy to the county auditor, together with full information on the bonds for which the tax is levied. The county auditor shall extend and assess the levied tax annually until the principal and interest are paid in full. The authority shall transfer the surplus from the excess levy in this section to a sinking fund after the principal and interest for which the tax was levied and collected is paid. The authority may direct its secretary to send a certificate to the county auditor before September 15 in a year. The certificate must state how much available income, including the amount in the sinking fund, the authority will use to pay principal or interest or both on each specified issue of the authority's bonds. The auditor shall then reduce the bond levy for that year by that amount. The authority shall then set aside the certified amount and may not use it for any purpose except to pay the principal and interest on the bonds. The taxes in this section shall be collected and sent to the authority by the county treasurer as provided in chapter 276. The taxes must be used only to pay the bonds when due.

Subd. 6. **Authorized securities.** Bonds legally issued under this chapter are authorized securities under section 50.14. A savings bank, trust company, or insurance company may invest in them. A public or municipal corporation may invest its sinking funds in them. The bonds may be pledged by a bank or trust company as security for the deposit of public money in place of a surety bond.

The authority's bonds are instrumentalities of a public governmental agency.

History: *1987 c 291 s 103; 1994 c 416 art 1 s 49; 1995 c 256 s 9; 2002 c 390 s 8*

469.103 REVENUE BONDS; PLEDGE; COVENANTS.

Subdivision 1. **Authority.** An economic development authority may decide by resolution to issue its revenue bonds either at one time or in series from time to time. The revenue bonds may be issued to provide money to pay to acquire land needed to operate the authority, to purchase or construct facilities, to purchase, construct, install, or furnish capital equipment to operate a facility for economic development of any kind within the city, or to pay to extend, enlarge, or improve a project under its control. The issued bonds may include the amount the authority considers necessary to establish an initial reserve to pay principal and interest on the bonds. The authority shall state in a resolution how the bonds and their attached interest coupons are to be executed.

Subd. 2. **Form.** The bonds of each series issued by the authority under this section shall bear interest at a rate or rates, shall mature at the time or times within 30 years from the date of issuance, and shall be in the form, whether payable to bearer, registrable as to principal, or fully registrable, as determined by the authority. Section 469.102, subdivision 6, applies to all bonds issued under this section, and the bonds and their coupons, if any, when payable to bearer, shall be negotiable instruments.

Subd. 3. **Sale.** The sale of revenue bonds issued by the authority shall be at public or private sale. The bonds may be sold in the manner and for the price that the authority determines to be for the best interest of the authority. The bonds may be made callable, and if so issued, may be refunded.

Subd. 4. **Agreements.** The authority may by resolution make an agreement or covenant with the bondholders or their trustee. The authority must first decide that the agreement or covenant is needed or desirable to do what the authority may do under this section and to assure that the revenue bonds are marketable and promptly paid.

Subd. 5. **Revenue pledge.** In issuing general obligation or revenue bonds, the authority may secure the payment of the principal and the interest on the bonds by a pledge of and lien on authority revenue. The revenue must come from the facility to be acquired, constructed, or improved with the bond proceeds or from other facilities named in the bond-authorizing resolutions. The authority also may secure the payment with its promise to impose, maintain,

and collect enough rentals, rates, and charges, for the use and occupancy of the facilities and for services furnished in connection with the use and occupancy, to pay its current expenses to operate and maintain the named facilities, and to produce and deposit sufficient net revenue in a special fund to meet the interest and principal requirements of the bonds, and to collect and keep any more money required by the resolutions. The authority shall decide what constitutes "current expense" under this subdivision based on what is normal and reasonable under generally accepted accounting principles. Revenues pledged by the authority must not be used or pledged for any other authority purpose or to pay any other bonds issued under this section or under section 469.102, unless the other use or pledge is specifically authorized in the bond-authorizing resolutions.

Subd. 6. **Not city debt.** Revenue bonds issued under this section are not a debt of the authority's city nor a pledge of that city's full faith and credit. The bonds are payable only from project revenue as described in this section. A revenue bond must contain on its face a statement to the effect that the economic development authority and its city do not have to pay the bond or the interest on it except from revenue and that the faith, credit, and taxing power of the city are not pledged to pay the principal of or the interest on the bond.

Subd. 7. **Not applicable.** Sections 469.153, subdivision 2, paragraph (e), and 469.154, subdivisions 3, 4, and 5 do not apply to revenue bonds issued under this section and sections 469.152 to 469.165 if the interest on the revenue bonds is subject to both state and federal income tax or if the revenue bond proceeds are not loaned by the authority to a private person.

Subd. 8. **Tax increment bonds.** Obligations secured or payable from tax increment revenues and issued pursuant to this section or section 469.102 are subject to the provisions of section 469.178.

History: *1987 c 291 s 104; 2006 c 259 art 9 s 8*

469.104 SECTIONS THAT APPLY IF FEDERAL LIMIT APPLIES.

Sections 474A.01 to 474A.21 apply to obligations issued under sections 469.090 to 469.108 that are limited by federal tax law as defined in section 474A.02, subdivision 8.

History: *1987 c 291 s 105; 2005 c 10 art 1 s 71*

469.105 SALE OF PROPERTY.

Subdivision 1. **Power.** An economic development authority may sell and convey property owned by it within the city or an economic development district if it determines that the sale and conveyance are in the best interests of the city or district and its people, and that the transaction furthers its general plan of economic development. This section is not limited by other law on powers of economic development authorities.

Subd. 2. **Notice; hearing.** An authority shall hold a hearing on the sale. At the hearing a taxpayer may testify for or against the sale. At least ten, but not more than 20, days before the hearing the authority shall publish notice of the hearing on the proposed sale in a newspaper. The newspaper must be published and have general circulation in the authority's county and city. The notice must describe the property to be sold and state the time and place of the hearing. The notice must also state that the public may see the terms and conditions of the sale at the authority's office and that at the hearing the authority will meet to decide if the sale is advisable.

Subd. 3. **Decision; appeal.** The authority shall make its findings and decision on whether the sale is advisable and enter its decision on its records within 30 days of the hearing. A taxpayer may appeal the decision by filing a notice of appeal with the district court in the city or economic development district's county and serving the notice on the secretary of the authority, within 20 days after the decision is entered. The only ground for appeal is that the action of the authority was arbitrary, capricious, or contrary to law.

Subd. 4. **Terms.** The terms and conditions of sale of the property must include the use that the bidder will be allowed to make of it. The authority may require the purchaser to file security to assure that the property will be given that use. In deciding the sale terms and conditions the authority may consider the nature of the proposed use and the relation of the use to the improvement of the authority's city and the business and the facilities of the authority in general. The sale must be made on the authority's terms and conditions. The authority may publish an advertisement for bids on the property at the same time and in the same manner as the notice of hearing required in this section. The authority may award the sale to the bid considered by it to be most favorable considering the price and the specified intended use. The authority may also sell the property at private sale at a negotiated price if after its hearing the authority considers that sale to be in the public interest and to further the aims and purposes of sections 469.090 to 469.108.

Subd. 5. **One-year deadline.** Within one year from the date of purchase, the purchaser shall devote the property to its intended use or begin work on the improvements to the property to devote it to that use. If the purchaser fails to do so, the authority may cancel the sale and title to the property shall return to it. The authority may extend the time to comply with a condition if the purchaser has good cause. The terms of sale may contain other provisions that the authority considers necessary and proper to protect the public interest. A purchaser must not transfer title to the property within one year of purchase without the consent of the authority.

Subd. 6. **Covenant running with the land.** A sale made under this section must incorporate in the deed as a covenant running with the land the conditions of sections 469.090 to 469.108 relating to the use of the land. If the covenant is violated the authority may declare a breach of the covenant and seek a judicial decree from the district court declaring a forfeiture and a cancellation of the deed.

Subd. 7. **Plans; specifications.** A conveyance must not be made until the purchaser gives the authority plans and specifications to develop the property sold. The authority must approve the plans and specifications in writing. The authority may require preparation of final plans and specifications before the hearing on the sale.

History: *1987 c 291 s 106*

469.106 ADVANCES BY AUTHORITY.

An authority may advance its general fund money or its credit, or both, without interest, for the objects and purposes of sections 469.090 to 469.108. The advances must be repaid from the sale or lease, or both, of developed or redeveloped lands. If the money advanced for the development or redevelopment was obtained from the sale of the authority's general obligation bonds, then the advances must have not less than the average annual interest rate that is on the authority's general obligation bonds that are outstanding at the time the advances are made. The authority may advance repaid money for more objects and purposes of sections 469.090 to 469.108 subject to repayment in the same manner. The authority must still use rentals of lands acquired with advanced money to collect and maintain reserves to secure the payment of principal and interest on revenue bonds issued to finance economic development facilities, if the rentals have been pledged for that purpose under section 469.103. Advances made to acquire lands and to construct facilities for recreation purposes if authorized by law need not be reimbursed under this section. Sections 469.090 to 469.108 do not exempt lands leased from the authority to a private person, or entity from assessments or taxes against the leased property while the lessee is liable for the assessments or taxes under the lease.

History: *1987 c 291 s 107*

469.107 CITY MAY LEVY TAXES FOR ECONOMIC DEVELOPMENT AUTHORITY.

Subdivision 1. **City tax levy.** A city may, at the request of the authority, levy a tax in any year for the benefit of the authority. The tax must be not more than 0.01813 percent of taxable market value. The amount levied must be paid by the city treasurer to the treasurer of the authority, to be spent by the authority.

Subd. 2. **Reverse referendum.** A city may increase its levy for economic development authority purposes under subdivision 1 in the following way. Its city council must first pass a resolution stating the proposed amount of levy increase. The city must then publish the resolution together with a notice of public hearing on the resolution for two successive weeks in its official newspaper or if none exists in a newspaper of general circulation in the city. The hearing must be held two to four weeks after the first publication. After the hearing, the city council may decide to take no action or may adopt a resolution authorizing the proposed increase or a lesser increase. A resolution authorizing an increase must be published in the city's official newspaper or

if none exists in a newspaper of general circulation in the city. The resolution is not effective if a petition requesting a referendum on the resolution is filed with the city clerk within 30 days of publication of the resolution. The petition must be signed by voters equaling five percent of the votes cast in the city in the last general election. The election must be held at a general or special election. Notice of the election must be given in the manner required by law. The notice must state the purpose and amount of the levy.

History: *1987 c 291 s 108; 1988 c 719 art 5 s 84; 1989 c 277 art 4 s 64; 1992 c 511 art 5 s 13*

469.108 SPECIAL LAW; OPTIONAL USE.

A city that has established a port authority by special law or that has been granted the power to establish a port authority by special law, or a city whose city council has been authorized to exercise the powers of a port authority by special law may elect to use the powers granted in sections 469.090 to 469.108. If the election is made, the powers and duties set forth in sections 469.090 to 469.108 supersede the special law and the special law must not be used after the election. The use of powers under sections 469.090 to 469.108 by a city described in this section does not impair the security of any obligations issued or contracts or agreements executed under the special law. Control, authority, and operation of any project may be transferred to the authority in the manner provided in section 469.094.

History: *1987 c 291 s 109*

469.1081 LIABLE IN CONTRACT OR TORT.

Subject to the provisions of chapter 466, an authority shall be liable in contract or in tort in the same manner as a private corporation. The commissioners of an authority shall not be personally liable as such on its contracts, or for torts, not committed or directly authorized by them. The property or funds of an authority shall not be subject to attachment, or to levy and sale on execution, but, if an authority refuses to pay a judgment entered against it in any court of competent jurisdiction, the district court for the county in which the authority is situated may, by writ of mandamus, direct the treasurer of the authority to pay the judgment from any unencumbered funds available for that purpose.

History: *1991 c 342 s 13*

469.1082 COUNTY ECONOMIC DEVELOPMENT AUTHORITY OR HOUSING AND REDEVELOPMENT AUTHORITY WITH ECONOMIC DEVELOPMENT POWERS.

Subdivision 1. **Authority to create.** A county may form a county economic development authority or grant a housing and redevelopment authority the powers specified in subdivision 4, clause (2), if it receives a recommendation to do so from a committee formed under subdivision 2.

An economic development authority established under this section has all the powers and rights of an authority under sections 469.090 to 469.1081, except the authority granted under section 469.094 if so limited under subdivision 4. This section is in addition to any other authority to create a county economic development authority or service provider.

Nothing in this section shall alter or impair any grant of powers, or any other authority granted to a community development agency, a county housing and redevelopment authority, or any county as provided in section 383D.41; Laws 1974, chapter 473, as amended; or Laws 1980, chapter 482, as amended. Any county that has granted economic development powers to a community development agency or a county housing and redevelopment authority under any of these provisions may not form a county economic development authority or grant a housing and redevelopment authority the powers specified in subdivision 4, clause (2).

Subd. 2. **Local committees.** Upon notice to all local government units and development agencies within the county, a county may adopt a resolution to create a committee to recommend options for a county economic development service provider.

The committee shall consist of no fewer than 11 and no more than 15 members appointed by the county board. At least one city official, at least one housing and redevelopment official, and at least one township official from the county to be served by the county economic service provider shall be included on the committee. Members may also represent school districts, political subdivisions that currently provide services under sections 469.001 to 469.047 and 469.090 to 469.1081, nonprofit or for-profit housing and economic development organizations, business, and labor organizations located within the county. Political subdivision representatives must be selected by their local governments and must constitute at least 50 percent of the total committee membership. The county may appoint no more than two county commissioners. The committee shall select a chair at its initial meeting.

Subd. 3. **Committee report.** The committee shall issue its report within 90 days of its initial meeting. The committee may request one 60-day extension from the county board. The report must contain the committee's recommendation for the preferred organizational option for a county economic development service provider, including the distance from the boundary of the city that may be controlled by each affected city in subdivision 5. The distance may not exceed two miles from the city boundary. The report must contain written findings on issues considered by the committee including, but not limited to, the following:

(1) identification of the current level of economic development, housing, and community development programs and services provided by existing agencies, any existing gaps in programs and services, and the capacity and ability of those agencies to expand their activities; and

(2) the recommended organizational option for providing needed economic development, housing, and community development services in the most efficient, effective manner.

Subd. 4. **Organizational options.** The committee may only recommend:

(1) establishment of a county economic development authority to operate under sections 469.090 to 469.1081, except that the county shall not have the powers of section 469.094 without the consent of an existing county housing and redevelopment authority operating within that county. For the purposes of a county economic development authority's operation, the county is considered to be the city and the county board is considered to be the city council;

(2) requiring an existing county housing and redevelopment authority or multicounty housing and redevelopment authority to operate under sections 469.090 to 469.1081;

(3) that the county pursue special legislation; or

(4) no change in the existing structure.

Subd. 5. **Area of operation.** The area of operation of a county economic development service provider created under this section shall include all cities within a county that have adopted resolutions electing to participate. A city may adopt a resolution electing to withdraw participation. The withdrawal election may be made every fifth year following adoption of the resolution electing participation. The withdrawal election is effective on the anniversary date of the original resolution provided notice is given to the county economic development authority not less than 90 nor more than 180 days prior to that anniversary date. The city electing to withdraw retains any rights, obligations, and liabilities it obtained or incurred during its participation. Any city within the county shall have the option to adopt a resolution to prohibit the county economic development service provider created under this section from operating within its boundaries and (1) within an agreed upon urban service area, or (2) within the distance approved in the committee report referenced in subdivision 3. If a city prohibits a county economic development service provider created under this section from operating within its boundaries, the city's property taxpayers shall not be subject to the property tax levied for the county economic development service provider.

Subd. 6. **City economic development authorities.** If a county economic development service provider has been established under this section, existing city economic development authorities shall continue to function and operate under sections 469.090 to 469.1081. Additional city economic development authorities may be created within the area of operation of the county economic development service provider created under this section without the explicit concurrence of the county economic development service provider.

Subd. 7. **Continuation of existing county and multicounty housing and redevelopment authorities.** Existing county and multicounty housing and redevelopment authorities shall continue to function and operate under the provisions of sections 469.001 to 469.047.

Subd. 8. **Nine-member boards authorized.** In addition to the board options under

section 469.095, a county economic development authority may have a nine-member board. If the authority has a nine-member board, at least two members must be county commissioners appointed by the county board. Of the county economic development authority board members initially appointed, two each shall be appointed for terms of one, two, or three years, respectively, and one each for terms of four, five, or six years, respectively. Thereafter, all authority members shall be appointed for six-year terms.

History: *2000 c 484 art 1 s 4; 1Sp2005 c 1 art 4 s 106; 1Sp2005 c 3 art 7 s 10*

AREA REDEVELOPMENT

469.109 PURPOSE.

The legislature finds that there exists in the state certain areas of substantial and persistent unemployment causing hardship to many individuals and their families and that there also exist certain rural areas where development and redevelopment should be encouraged. The legislature finds that the powers and facilities of the state government and local communities, in cooperation with the federal government, should assist rural areas and areas of substantial and chronic unemployment in planning and financing economic redevelopment by private enterprise, enabling those areas to enhance their prosperity by the establishment of stable and diversified local economies, and to provide new employment opportunities through the development and expansion of new or existing facilities and resources.

The legislature finds that the establishment of local or regional area redevelopment agencies in Minnesota having the power to acquire, build, lease, sell, or otherwise provide plants and facilities for industrial, recreational, or commercial development will create new employment and promote economic redevelopment of rural areas and of depressed or underdeveloped areas in the state, and that the accomplishment of these objectives is a public purpose for which public money may be spent.

History: *1987 c 291 s 110*

469.110 DEFINITIONS.

Subdivision 1. **Generally.** In sections 469.109 to 469.123, the terms defined in this section have the meanings given them herein, unless the context indicates otherwise.

Subd. 2. **Department.** "Department" means the Department of Employment and Economic Development.

Subd. 3. **Local agency.** "Local agency" means the area or municipal redevelopment agencies created or authorized to be created by sections 469.109 to 469.123, or the governing body of any Indian tribe or any entity established and recognized by that governing body.

Subd. 4. **Municipality.** "Municipality" means any home rule charter or statutory city, county, town, or school district.

Subd. 5. **Governing body.** "Governing body" means the council, board of trustees, or other body charged with governing any municipality.

Subd. 6. **Board.** "Board" means the governing body of any local or area redevelopment agency created in accordance with the provisions of sections 469.109 to 469.123.

Subd. 7. **Redevelopment area.** "Redevelopment area" means a depressed area within the territorial boundaries of any municipality or group of municipalities of the state reasonably defined by the local or area redevelopment agency wherein critical conditions of unemployment, underdevelopment, economic depression, depletion of natural resources, or widespread reliance on public assistance are found to exist by the municipality or municipalities.

Subd. 8. **Federal agency.** "Federal agency" means the government of the United States or any department, corporation, agency, or instrumentality thereof.

Subd. 9. [Repealed, 1995 c 186 s 80]

Subd. 10. **Redevelopment project.** "Redevelopment project" means any approved site, structure, facility, or undertaking comprising or connected with any industrial, recreational, commercial, or manufacturing enterprise established or assisted by a local, regional, or area redevelopment agency.

Subd. 11. **Rural area.** "Rural area" means any area so defined in section 469.109 of the Rural Development Act of 1972, Public Law 92-419, and unless in conflict with that act, shall include all areas not within the outer boundary of any city having a population of 50,000 or more and its immediately adjacent urbanized and urbanizing areas with a population density of more than 100 persons per square mile.

Subd. 12. **Indian economic enterprise.** "Indian economic enterprise" means any commercial, industrial, or business activity established or organized for the purpose of profit, at least 51 percent of which is owned by persons of 25 percent or more Indian blood.

Subd. 13. **Indian tribe.** "Indian tribe" means any group qualifying under Public Law 93-262, section 3.

History: *1987 c 291 s 111; 2002 c 379 art 1 s 88; 1Sp2003 c 4 s 1*

469.111 LOCAL OR AREA AGENCIES; ESTABLISHMENT.

Subdivision 1. **Findings required.** In order to carry out the purposes of sections 469.109 to 469.123, any municipality or group of municipalities may establish a public body, corporate and politic, to be known as the municipal or area redevelopment agency in and for that municipality

or group of municipalities. No such agency shall be established until the governing body of the municipality shall by resolution find that the area is a rural area as defined herein, or:

(1) that there has existed in the area substantial and persistent unemployment for an extended period of time;

(2) that the rate of unemployment, excluding unemployment due primarily to temporary or seasonal factors, is currently six percent or more as determined by available state or federal statistics; and

(3) that conditions of chronic unemployment, underdevelopment of natural resources, and economic depression are not likely to be alleviated without public financial or planning assistance to provide the economic opportunity for private, industrial, recreational, commercial, or manufacturing enterprises.

In making the determinations under this subdivision, the governing body shall consider, among other relevant factors, the number of low income farm families in the surrounding farm areas, the proportion that such low income families are to the total farm families in such areas, the relationship of the income levels of the families in each such area to the general levels of income in the United States, the current and prospective employment opportunities in each such area, the extent of migration out of the area, and the proportion of the population of each such area which has been receiving public assistance from the federal government or from the state.

Subd. 2. **Notice; hearing.** The governing body of a municipality shall consider such a resolution only after a public hearing thereon after notice appropriate to inform the public given not less than ten nor more than 30 days prior to the date of the hearing. Opportunity to be heard shall be granted to all residents of the municipality and its environs and to all other interested persons. The resolution shall be published in the same manner in which ordinances are published in the municipality.

Subd. 3. **Resolution deemed conclusive.** When the resolution becomes effective it shall be deemed sufficient and conclusive for all purposes.

Subd. 4. **Filing; effect.** When the resolution becomes effective the clerk of the municipality shall file a certified copy thereof with the state agency. In any suit, action, or proceeding involving the validity or enforcement of, or relating to any contract of a local agency, the agency shall be conclusively deemed to have become established and authorized to exercise its powers upon that filing. Proof of the resolution and of that filing may be made in any such suit, action, or proceeding by a certificate of the commissioner of employment and economic development.

Subd. 5. **Board of commissioners.** A local agency shall be governed by a board of commissioners appointed by the mayor or head of the municipality with the approval of its governing body. The board shall consist of five commissioners who shall be residents of the

area of operation of the local agency and shall be appointed initially for terms of one, two, three, four, and five years respectively. Thereafter all commissioners shall be appointed for five year terms. Each vacancy in an unexpired term shall be filled in the same manner in which the original appointment was made. No public officer or employee shall be eligible to serve as a commissioner, but a commissioner may be a notary public.

Subd. 6. **Terms; certificates.** The commissioners shall hold office until their successors have been appointed and qualified. A certificate of appointment of each commissioner shall be filed with the clerk of the municipality and a certified copy thereof shall be transmitted to the state agency.

History: *1987 c 291 s 112; 1987 c 312 art 1 s 26 subd 2; 1Sp2003 c 4 s 1*

469.112 MUNICIPALITIES MAY JOIN TOGETHER.

Subdivision 1. **Joint exercise of powers.** Two or more municipalities, by agreement entered into through action of their governing bodies, may jointly exercise any of the powers conferred by sections 469.109 to 469.123 after the governing body of each of the municipalities has adopted the resolution provided for in section 469.111, subdivision 1.

Subd. 2. **Agreement terms.** The agreement shall set forth its purpose and the powers to be exercised, and it shall provide for the method by which the purpose sought shall be accomplished or the manner in which the power shall be exercised.

Subd. 3. **Joint board.** The agreement shall provide for the establishment of a joint board of commissioners to exercise on behalf of the entire redevelopment area all of the powers authorized or conferred upon any municipality by the terms of sections 469.109 to 469.123. The joint board shall be selected from the board of commissioners of the municipalities entering into the joint agreement and shall be chosen by a vote of the respective boards; provided that the governor shall also appoint one member to the joint board from the state at large. The joint board shall consist of not less than seven nor more than 11 members.

Subd. 4. **Termination.** The agreement may be continued for a definite term or until rescinded or terminated in accordance with its terms.

Subd. 5. **Disposition of property and money.** The agreement shall provide for the disposition of any property acquired as a result of the joint exercise of powers and the return of any surplus money in proportion to contributions of the several contracting parties after the purpose of the agreement has been completed.

Subd. 6. **Residence requirements inapplicable.** The residence requirements for holding office in any governmental unit shall not apply to any officer appointed to carry out any such agreement.

History: *1987 c 291 s 113*

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: *1987 c 291 s 114; 2001 c 7 s 90*

469.114 AGENCIES; MEETINGS, EXPENSES.

Subdivision 1. **Commissioners' authority.** The powers of each agency shall be vested in the commissioners thereof in office at any time, a majority of whom shall constitute a quorum for all purposes. Each agency shall select a chair and a secretary from among its commissioners and shall adopt bylaws and other rules for the conduct of its affairs as it deems appropriate. The regular meetings of an agency shall be held in a fixed place and shall be open to the public. No commissioner shall receive compensation for services, but shall be entitled to receive necessary expenses, including traveling expenses, incurred in the performance of official duties.

Subd. 2. **Staff services.** Any municipality within the area of operation of the local redevelopment agency may provide staff services to the agency, including providing liaison between the local agency, the municipality and the state agency, and between the local agency and other agencies of the state whose facilities and services may be useful to the local agency in accomplishing its purposes.

Subd. 3. **Reimbursement.** The local agency may reimburse any municipality or other agency of the state for special expenses incurred in the provision of any services or for the use of any facilities required by the local agency.

History: *1986 c 444; 1987 c 291 s 115*

469.115 POWERS OF AGENCIES.

A local agency shall have all the powers necessary or convenient to carry out the purposes of sections 469.109 to 469.123; except that the agencies shall not levy and collect taxes or special assessments, nor exercise the power of eminent domain unless the governing body of the municipality or municipalities, in the case of a joint exercise of power, shall by resolution have expressly conferred that power on the agency. A local agency shall also have the following powers in addition to others granted in sections 469.109 to 469.123:

(1) to sue and be sued, to have a seal, which shall be judicially noticed, and to alter the same at pleasure; to have perpetual succession; and to make, amend, and repeal rules and regulations not inconsistent with these sections;

(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 service it may require, to call upon the chief law officer of the municipality or to employ its own counsel and legal staff; so far as practical, to use the services of local public bodies, in its area of operation. Those local 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) upon proper application by a public body or private applicant, and after determining that the purpose of sections 469.109 to 469.123 will be accomplished by the establishment of the project in the redevelopment area to approve a redevelopment project;

(5) to 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 gift, grant, purchase, exchange, lease, transfer, bequest, devise, or otherwise. An agency may acquire real property which it deems necessary for its purposes by exercise of the power of eminent domain in the manner provided in chapter 117, after adoption 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 469.111, subdivision 1;

(7) to designate redevelopment areas;

(8) to cooperate with industrial development corporations, state and federal agencies, and private persons or corporations in efforts to promote the expansion of recreational, commercial, industrial, and manufacturing activity in a redevelopment area;

(9) upon proper application by any public body or private applicant, to determine whether the declared public purpose of these sections has been accomplished or will be accomplished by the establishment of a redevelopment project in a redevelopment area;

(10) to obtain information necessary to the designation of a redevelopment area and the establishment of a redevelopment project therein;

(11) to cooperate with or act as agent for the federal government, the state, or any state public body or any agency or instrumentality thereof in carrying out the provisions of these sections or of any other related federal, state, or local legislation;

(12) to borrow money or other property and accept contributions, grants, gifts, services, or other assistance from the federal or state government to accomplish the purposes of sections 469.109 to 469.123;

(13) to include in any contract for financial assistance with the federal government any conditions which the federal government may attach to its financial aid of a redevelopment project;

(14) to issue bonds, notes, or other evidences of indebtedness as hereinafter provided, for any of its purposes and to secure them by mortgages upon property held or to be held by it, or by pledge of its revenues, including grants or contributions; and

(15) to invest any funds held in reserve 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.

History: *1987 c 291 s 116; 2000 c 490 art 11 s 12*

469.116 BOND ISSUE FOR REDEVELOPMENT PURPOSES.

Subdivision 1. **Power to issue.** A local agency may issue bonds for any of its corporate purposes. Subject to the limitations of this section, the bonds may be of the type it determines, including bonds on which the principal and interest are payable exclusively from the income and revenues of the project financed with the proceeds of the bonds, or exclusively from the income and revenues of certain designated projects, whether or not they are financed in whole or in part with the proceeds of the bonds. The bonds may be additionally secured by a pledge of any grant or contribution from the federal government or other sources, or a pledge of any income or revenues of the agency, from the redevelopment project for which the proceeds of the bonds are to be used, or a mortgage of any project or other property of the agency. Neither the commissioners of any agency nor any person executing the bonds shall be liable personally on the bonds.

Subd. 2. **Liability limited.** The bonds and other obligations of a local agency shall not be a debt of any municipality, the state, or any political subdivision thereof. Neither a municipality nor the state or any political subdivision thereof shall be liable on the bonds, nor shall the bonds or obligations be payable out of any funds or properties other than those of the agency.

Subd. 3. **Debt limitations inapplicable.** The bonds shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction.

Subd. 4. **Bond characteristics.** The bonds of a local agency are declared to be issued for an essential public and governmental purpose and to be public instrumentalities. The provisions of these sections exempting from taxation redevelopment agencies, their properties and income, shall be considered additional security for the repayment of bonds and shall constitute a contract between the bondholders, including transferees, and the local agencies issuing the bonds. A local

agency may confer upon the holder of the bonds the rights and remedies it deems necessary or advisable, including the right in the event of default to have a receiver appointed to take possession of and operate the redevelopment project.

Subd. 5. **Taxability of transferred property.** Nothing in these sections shall be construed to exempt from taxation any property which any local agency sells, leases, conveys, or otherwise transfers to private individuals or corporations for development, use, or operation in connection with a redevelopment project. The property, real or personal, shall have the same tax status as if it were owned by private individuals or corporations.

Subd. 6. **Terms of bonds.** The bonds of a local agency shall be authorized by its resolution and may be issued in one or more series. They shall bear the date or dates, mature at the time or times, bear interest at the rate or rates, not exceeding six percent per annum, be in the denomination or denominations, be in the form, either coupon or registered, carry the conversion or registration privileges, have the priority, and be subject to the terms of redemption as the resolution, its trust indenture or mortgage may provide. The bonds may be sold at public or private sale at not less than par.

Subd. 7. **Investment in bonds.** Subject to the approval of the state agency, the bonds of a local agency may be declared securities in which all public officers and bodies of the state and of its municipal subdivisions, all insurance companies and associations, all savings banks and savings institutions, including savings associations, executors, administrators, guardians, trustees, and all other fiduciaries in the state may properly and legally invest the funds within their control. Each mortgage or issue of bonds shall relate only to a single specified project, and those bonds shall be secured by a mortgage upon all the real property of which the projects consist and shall be first lien bonds, secured by a mortgage not exceeding 80 percent of the estimated cost prior to the completion of the project, or 80 percent of the appraised value or actual cost, but in no event in excess of 80 percent of the actual cost, after that completion, as certified by the department.

Subd. 8. **When Bond Allocation Act applies.** Sections 474A.01 to 474A.21 apply to any issuance of obligations under this section which are subject to limitation under a federal tax law as defined in section 474A.02, subdivision 8.

History: *1987 c 291 s 117; 1995 c 202 art 1 s 25; 2000 c 260 s 64; 2002 c 379 art 1 s 89*

469.117 EMINENT DOMAIN PROCEEDINGS.

Subdivision 1. **Compensation.** If a local agency deems necessary, it may, after having filed in court an application to assess compensation for the property to be appropriated pursuant to eminent domain proceedings, forthwith pay into court a sum of money to secure compensation to the owner of the appropriated property. The amount shall be fixed by the court in a sum not less than the valuation of the property appropriated as fixed by the assessor and as finally equalized.

The title to the property appropriated shall pass to the local agency upon the payment of that sum of money into court. After 30 days' notice thereof to the owner, the local agency may enter upon the property appropriated and demolish any structure thereon and proceed with the construction of the project proposed by it. No property for which condemnation proceedings have been initiated shall be demolished until 30 days after the court appointed appraisers have made and filed their award. It shall then proceed with the prosecution of its suit to assess compensation with due diligence. The deposit shall be applied, so far as necessary for that purpose, to the payment of any award that may be made, with interest thereon, and the remainder, if any, shall be returned to the local agency.

Subd. 2. **Right of acquisition.** Real property in a redevelopment area that is needed or convenient for a project, which is to be acquired by condemnation pursuant to this section, may be acquired by the local agency for the project. 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, it being determined that the public use in conformity with the provisions of sections 469.109 to 469.123 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 local agency. 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 469.109 to 469.123 of the real property in an area.

History: *1987 c 291 s 118*

469.118 LOANS TO REDEVELOPMENT AGENCIES.

Subdivision 1. **Conditions for making.** When it has been determined by the department upon application of a local agency that the establishment of a particular redevelopment project in a redevelopment area has accomplished or will accomplish the public purposes of sections 469.109 to 469.123, the department may contract to loan the local agency an amount not in excess of 20 percent of the cost or estimated cost of the redevelopment project, subject to the following conditions:

(a) In the case of a redevelopment project to be established:

(1) the department shall have first determined that the local agency holds funds in an amount equal to, or property of a value equal to not less than, ten percent of the estimated cost of establishing the redevelopment project, which funds or property are available for and shall be applied to the establishment of the project. If a public facility within the redevelopment area has been or may be constructed and will benefit a redevelopment project, the imputed value of the benefit of the facility to the redevelopment project may be determined and the estimated

cost thereof credited to the local agency for the purpose of satisfying the requirements of this subparagraph. For purposes of this section, a public facility includes utility installations, street improvements, public buildings, parks, playgrounds, schools, recreational buildings, and parking facilities;

(2) the department shall have also determined that the local agency has obtained from other sources, by gift, grant, or loan from private or other state or federal sources, a firm commitment for all other funds, over and above the loan of the state agency, and such funds or property as the redevelopment agency may hold, necessary for payment of all the estimated cost of establishing the redevelopment project, and that the sum of all these funds, together with the machinery and equipment to be provided by the owner or operator of the redevelopment project is adequate to ensure completion and operation of the plant, enterprise, or facility.

(b) In the case of a redevelopment project established without initial state or local agency participation:

(1) the state agency shall have first determined that the local or area redevelopment agency has expended funds in an amount equal to, or has applied property of a value equal to, not less than ten percent of the cost of establishing the redevelopment project. If a public facility within the redevelopment area has been or may be constructed and will benefit a redevelopment project, the imputed value of the benefit of the facility to the redevelopment project may be determined and the estimated cost thereof credited to the local agency for the purpose of satisfying the requirements of this subparagraph;

(2) the department shall have also determined that the local agency has obtained from other public or private sources other funds necessary for payment of all the cost of establishing the redevelopment project, and that the local agency participation and these funds, together with the machinery and equipment provided by the owner or operator of the redevelopment project has been adequate to ensure completion and operation of the plant, enterprise, or facility. The proceeds of any loan made by the department to a local agency pursuant to this paragraph shall be used only for the establishment of additional redevelopment projects in furtherance of the public purposes of sections 469.109 to 469.123.

Subd. 2. **Terms.** Any such loan of the department shall be for the period of time and shall bear interest at the rate determined by the department. It may be secured by a mortgage on the redevelopment project for which the loan was made. The mortgage may be second and subordinate only to the mortgage securing the first lien obligation, if any, issued to secure the commitment of funds from a private or public source and used in the financing of the redevelopment project.

Subd. 3. [Repealed, 1987 c 291 s 244; 1987 c 386 art 2 s 24]

Subd. 4. **Deposit of payments.** All payments of interest on the loans and repayments of

principal shall be deposited by the department in the Minnesota account and shall be available to be applied and reapplied to carry out the purposes of sections 469.109 to 469.123.

Subd. 5. [Repealed, 1987 c 291 s 244; 1987 c 386 art 2 s 24]

Subd. 6. [Repealed, 1987 c 291 s 244; 1987 c 386 art 2 s 24]

Subd. 7. [Repealed, 1987 c 291 s 244; 1987 c 386 art 2 s 24]

Subd. 8. [Repealed, 1987 c 291 s 244; 1987 c 386 art 2 s 24]

Subd. 9. [Repealed, 1987 c 291 s 244; 1987 c 386 art 2 s 24]

History: *1987 c 291 s 119; 2002 c 379 art 1 s 90-92*

469.119 LOAN APPLICATION REQUIREMENTS.

Subdivision 1. **Application contents.** Prior to the loaning of any funds for a redevelopment project in a redevelopment area the local agency shall receive from the applicant and, in the case of department participation, shall forward to the state agency a loan application. The application shall be in the form adopted by the local agency, and shall contain among other things the following information:

(1) a general description of the redevelopment project and of the industrial, recreational, commercial, or manufacturing enterprise for which the project has been or is to be established;

(2) a legal description of all real estate necessary for the project;

(3) plans and other documents as may be required to show the type, structure, and general character of the redevelopment project;

(4) a general description of the type, classes, and number of employees employed or to be employed in the operation of the redevelopment project; and

(5) cost or estimates of cost of establishing the redevelopment project.

Subd. 2. [Repealed, 1987 c 291 s 244; 1987 c 386 art 2 s 24]

Subd. 3. [Repealed, 1987 c 291 s 244; 1987 c 386 art 2 s 24]

Subd. 4. [Repealed, 1987 c 291 s 244; 1987 c 386 art 2 s 24]

History: *1987 c 291 s 120; 2002 c 379 art 1 s 93*

469.120 [Repealed, 1987 c 291 s 244; 1987 c 386 art 2 s 24]

469.121 Subdivision 1. [Repealed, 1989 c 335 art 4 s 109]

Subd. 2. [Repealed, 1987 c 291 s 244; 1987 c 386 art 2 s 24]

Subd. 3. [Repealed, 1987 c 291 s 244; 1987 c 386 art 2 s 24]

Subd. 4. [Repealed, 1987 c 291 s 244; 1987 c 386 art 2 s 24]

469.122 LIMITATION OF POWERS.

The state pledges to the United States or any agency thereof that if any federal agency shall construct, loan, or contribute any funds for the construction, extension, improvement, or enlargement of any redevelopment project, or any portion thereof, the state will not alter or limit the rights and powers of the department or the local agency in any manner inconsistent with the performance of any agreements between the department or the local agency and any such federal agency. The department and the local agency shall continue to have all powers herein granted, so long as the same shall be necessary or desirable for the carrying out of the purposes of these sections.

History: *1987 c 291 s 123; 2002 c 379 art 1 s 94*

469.123 EXAMINATION AND AUDIT OF LOCAL AGENCY.

The accounts, books, and records of any local or area agency, including its receipts, disbursements, contracts, mortgages, investments, and other matters relating to its finances, operation, and affairs shall be examined and audited from time to time by the state auditor as provided by law.

History: *1987 c 291 s 124*

CITY DEVELOPMENT DISTRICTS

469.124 PURPOSE.

The legislature finds that there is a need for new development in areas of a city that are already built up in order to provide employment opportunities, to improve the tax base, and to improve the general economy of the state. Therefore, cities are authorized to develop a program for improving a district of the city to provide impetus for commercial development; to increase employment; to protect pedestrians from vehicle traffic and inclement weather; to provide the necessary linkage between peripheral parking facilities and places of employment and shopping; to provide off-street parking to serve the shoppers and employees of the district; to provide open space relief within the district; and to provide other facilities as are outlined in the development program adopted by the governing body. The legislature declares that the actions required to assist the implementation of these development programs are a public purpose and that the execution and financing of these programs are a public purpose.

History: *1987 c 291 s 125*

469.125 DEFINITIONS.

Subdivision 1. **Generally.** In sections 469.124 to 469.134, the terms defined in this section

have the meanings given them herein unless the context indicates a different meaning.

Subd. 2. **City.** "City" means any home rule charter or statutory city.

Subd. 3. **Development program.** A "development program" is a statement of objectives of the city for improvement of a development district which contains a statement as to the public facilities to be constructed within the district, the open space to be created, the environmental controls to be applied, the proposed reuse of private property, and the proposed operations of the district after the capital improvements within the district have been completed.

Subd. 4. **Pedestrian skyway system.** "Pedestrian skyway system" means any system of providing for pedestrian traffic circulation, mechanical or otherwise, elevated aboveground, within and without the public right-of-way, and through or above private property and buildings, and includes overpasses, bridges, passageways, walkways, concourses, hallways, corridors, arcades, courts, plazas, malls, elevators, escalators, heated canopies and accesses and all fixtures, furniture, signs, equipment, facilities, services, and appurtenances which in the judgment of the governing body of the city will enhance the movement, safety, security, convenience, and enjoyment of pedestrians and benefit the city and adjoining properties. The use of a public street or public right-of-way for pedestrian skyway travel only constitutes a public use and shall not require a vacation of the street or right-of-way.

Subd. 5. **Special lighting systems.** "Special lighting systems" means lights or light displays of any type located within or without the public right-of-way.

Subd. 6. **Parking structure.** "Parking structure" means any building the principal use of which is designed for and intended for parking of motor vehicles or any parking lot.

Subd. 7. **Maintenance and operation.** "Maintenance and operation" means all activities necessary to maintain facilities after they have been developed and all activities necessary to operate the facilities including informational and educational programs, and safety and surveillance activities.

Subd. 8. **Governing body.** "Governing body" means the city council.

Subd. 9. **Development district.** A "development district" is an area within the corporate limits of a city which has been so designated and separately numbered by the governing body.

History: *1987 c 291 s 126*

469.126 AUTHORITY GRANTED.

Subdivision 1. **Designation of districts.** A city may designate development districts within the boundaries of the city. Before designating a district, the city must consult with its planning agency or department and must hold a public hearing on the designation. Notice of the hearing

must be published in the official newspaper of the city or, if there is no official newspaper, in a newspaper of general distribution in the city. The city shall also provide for relocation pursuant to section 469.133 and consult with the advisory board created by section 469.132 before making this designation.

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: *1987 c 291 s 127; 2001 c 7 s 75*

469.127 TAX STATUS.

The pedestrian skyway system, underground pedestrian concourse, the people mover system, and publicly owned parking structures are declared to be public property to be used for essential public and governmental purposes. They are exempt from all taxes and special assessments of the city, county, state, or any political subdivision thereof, except to the extent that the property is subject to the sales and use tax under chapter 297A. Taxes do not include charges for utilities and special services such as heat, water, electricity, gas, sewage disposal, or garbage removal.

History: *1987 c 291 s 128; 2000 c 418 art 2 s 8*

469.128 GRANTS.

A city may accept grants or other financial assistance from the government of the United States or any other entity to do studies, construct and operate the pedestrian skyway system, underground pedestrian concourses, people mover systems, and other public improvements authorized by sections 469.124 to 469.134.

History: *1987 c 291 s 129*

469.129 ISSUANCE OF BONDS.

Subdivision 1. **General obligation bonds.** The governing body may authorize, issue, and sell general obligation bonds to finance the acquisition and betterment of real and personal property needed to carry out the development program within the development district together with all relocation costs incidental thereto. The bonds shall mature within 30 years from the date of issue and shall be issued in accordance with sections 475.51, 475.53, 475.54, 475.55, 475.56, 475.60, 475.61, 475.62, 475.63, 475.65, 475.69, and 475.70. All tax increments received by the city pursuant to Minnesota Statutes 1978, section 472A.08, shall be pledged for the payment of these bonds and used to reduce or cancel the taxes otherwise required to be extended for that purpose. The bonds shall not be included when computing the city's net debt. Bonds shall not be issued under this paragraph subsequent to August 1, 1979.

Subd. 2. **Revenue bonds.** A city may authorize, issue, and sell revenue bonds under section 469.178, subdivision 4, to refund the principal of and interest on general obligation bonds originally issued to finance a development district, or one or more series of bonds one of which series was originally issued to finance a development district, for the purpose of relieving the city of restrictions on the application of tax increments or for other purposes authorized by law. The refunding bonds shall not be subject to the conditions set out in section 475.67, subdivisions 11 and 12. Tax increments received by the city with respect to the district may be used to pay the principal of and interest on the refunding bonds and to pay premiums for insurance or other security guaranteeing the payment of their principal and interest when due. Tax increments may

be applied in any manner permitted by section 469.176, subdivisions 2 and 4. Bonds may not be issued under this subdivision after April 30, 1990.

History: *1987 c 291 s 130; 1989 c 209 art 2 s 43; 1990 c 426 art 1 s 49; 1990 c 604 art 7 s 3; 1991 c 199 art 2 s 27; 1996 c 399 art 2 s 12*

469.130 MAINTENANCE AND OPERATION.

Maintenance and operation of the pedestrian systems, special lighting systems, parking structures, and other public improvements constructed under provisions of sections 469.124 to 469.134 shall be under the supervision of the administrator as designated in section 469.131. The cost of maintenance and operation of the nonrevenue facilities together with the excess costs of operation and maintenance of revenue producing facilities, if any, shall be charged against the development district in which it is located. The amount of assessment against each property within the district shall be in proportion to the benefit to the several properties within the district. By July 1 of each year the administrator of the development district shall submit to the governing body of the city the maintenance and operating budget for the following year, and the pro rata share of the budget to be charged to each property in the district. The governing body of the city shall certify the assessments to the county auditor for collection. The governing body shall levy these assessments in accordance with the procedures established in section 429.061.

History: *1987 c 291 s 131*

469.131 ADMINISTRATION.

The governing body of a city may create a department or designate an existing department, office, or agency or city housing or redevelopment authority, to administer all districts authorized under sections 469.124 to 469.134. The head of this department may, subject to rules and limitations adopted by the governing body, be granted the following powers:

(1) to acquire property or easements through negotiation;

(2) to enter into operating contracts on behalf of the city for operation of any of the facilities authorized to be constructed under the terms of sections 469.124 to 469.134;

(3) to lease space to private individuals or corporations within the buildings constructed under the terms of sections 469.124 to 469.134;

(4) to lease or sell land and to lease or sell air rights over structures constructed under the authority of sections 469.124 to 469.134;

(5) to enter into contracts for construction of the several facilities or portion thereof authorized under sections 469.124 to 469.134;

(6) to contract with the housing and redevelopment authority of the city for the administration of any or all of the provisions of sections 469.124 to 469.134;

(7) to certify to the governing body for acquisition through eminent domain property that cannot be acquired by negotiation but is required for implementation of the development program;

(8) to certify to the governing body the amount of funds, if any, which must be raised through sale of bonds to finance the program for development districts; and

(9) to apply for grants from the United States of America and from other sources.

History: *1987 c 291 s 132*

469.132 ADVISORY BOARD.

Subdivision 1. **Creation; members; duties.** The governing body may create an advisory board except in cities of the first class where the governing body shall create an advisory board. Except as provided in subdivision 2, a majority of the members shall be owners or occupants of real property located in or adjacent to the development district which they serve. The advisory board shall advise the governing body and the administrator on the planning, construction, and implementation of the development program, and maintenance and operation of the district after the program has been completed.

Subd. 2. **Substantially residential districts.** In a substantially residential development district the board shall be comprised of owners and occupants of real property within or adjacent to the district's boundaries. The board may be appointed or elected according to guidelines established by the governing body, provided that the board in the cities of St. Paul and Minneapolis must be elected. For purposes of this subdivision a "substantially residential development district" is a development district in which 40 percent or more of the land area, exclusive of streets and open space, is used for residential purposes at the time the district is designated by the governing body.

Subd. 3. **Powers.** The governing body shall by resolution delineate the respective powers and duties of the advisory board and the planning staff or agency. The resolution shall establish reasonable time limits for approval by the advisory board of the phases of the development program, and provide a mechanism for appealing to the governing body for a final decision when conflicts arise between the advisory board and the planning staff or agency, regarding the development program.

History: *1987 c 291 s 133*

469.133 RELOCATION.

Unless they desire otherwise, provision must be made for relocation of all persons who would be displaced by a proposed development district prior to displacement in accordance with the provisions of sections 117.50 to 117.56. Prior to undertaking any relocation of displaced

persons, the governing body of a city shall ensure that housing and other facilities of at least comparable quality be made available to the persons to be displaced.

History: *1987 c 291 s 134*

469.134 EXISTING PROJECTS.

Sections 469.124 to 469.134 do not affect any project or program using tax increment financing which was approved by a city council under Laws 1971, chapter 548 or 677, or Laws 1973, chapter 196, 761, or 764, prior to July 1, 1974, and such projects or programs may be completed and financed in accordance with the provisions of the laws under which they were initiated notwithstanding any provision of this law. Provided, however, that Laws 1971, chapters 548 and 677, and Laws 1973, chapters 196, 761, and 764, are hereby specifically superseded, except as to those projects or programs which have been approved prior to July 1, 1974.

History: *1987 c 291 s 135*

MINED UNDERGROUND SPACE DEVELOPMENT

469.135 [Repealed, 2000 c 490 art 11 s 44]

469.136 [Repealed, 2000 c 490 art 11 s 44]

469.137 [Repealed, 2000 c 490 art 11 s 44]

469.138 [Repealed, 2000 c 490 art 11 s 44]

469.139 [Repealed, 2000 c 490 art 11 s 44]

469.140 [Repealed, 2000 c 490 art 11 s 44]

469.141 REGULATION TO PROTECT MINED UNDERGROUND SPACE.

Subdivision 1. **Department of Natural Resources review.** The Department of Natural Resources shall review all project plans that involve dewatering of underground formations for construction and operation of mined underground space to determine the effects of the proposal on the quality and quantity of underground waters in and adjacent to the areas where the mined underground space is to be developed.

Subd. 2. **Power to regulate.** Cities may regulate all drilling, except water well and exploratory drilling that is subject to the provisions of chapter 103I, above, in, through, and adjacent to subsurface areas designated for mined underground space development and existing mined underground space. The regulations may prohibit, restrict, control, and require permits for such drilling.

Subd. 3. **Water well regulation.** Cities may prohibit, restrict, control, and require permits

for drilling of wells as defined in section 103I.005, but the construction and abandonment of water wells is governed by chapter 103I.

Subd. 4. **Permits for water removal.** No mined underground space project involving or affecting the quality and quantity of underground waters may be developed until a water use permit for the appropriation of waters has been granted by the commissioner of natural resources under chapter 103G.

History: *1987 c 291 s 142; 1990 c 391 art 8 s 49; 1996 c 305 art 1 s 101; 1997 c 7 art 1 s 145*

RURAL DEVELOPMENT FINANCING AUTHORITIES

469.142 PURPOSES.

The purposes of a rural development financing authority are:

(1) to acquire, construct, improve, and equip projects comprising real and personal property within or outside the state, used or useful for producing or processing products of agriculture, including assembling, fabricating, manufacturing, mixing, storing, warehousing, distributing, or selling;

(2) to investigate, improve, and develop methods of constructing, operating, and financing such projects;

(3) to provide for the operation and maintenance of each project under an operating or lease agreement with a person, firm, or corporation considered qualified by experience and financial resources to assure that to the limit of its design and capacity it will make facilities for efficient and economical processing of agricultural products available throughout the term of the agreement to all producers contracting therefor;

(4) to promote agricultural, industrial, and scientific research in cooperation with state institutions of higher learning and profit or nonprofit private corporations, associations, or foundations;

(5) to assist in promoting new job opportunities through the development of natural resources and the agricultural industry by cooperating with private companies and with agencies of the federal and state governments and with agencies and political subdivisions of other states and of foreign nations to engage in the processing of agricultural products;

(6) to enter into contracts with or to employ financial, management, and production consultants, and scientific and economic specialists to develop and assist in promoting the purposes of the authority and to assist in operating, maintaining, constructing, and financing authority projects;

(7) to employ a financial management company to assist in organizing, initiating, developing, and operating projects for the authority under terms and conditions agreed upon between the authority and the company and to include any fee charged or to be charged by the company in the total capital costs of each project to be financed; and

(8) to provide financial or other assistance to rail users as defined in section 222.48, subdivision 6, for the purpose of making capital investment loans for rail line rehabilitation.

History: *1987 c 291 s 143*

469.143 DEFINITIONS.

In sections 469.142 to 469.151, the term "agriculture" includes forestry and timber production and the phrase "producing products of agriculture" does not include acquiring agricultural land.

History: *1987 c 291 s 144*

469.144 ESTABLISHMENT; BOARD.

Subdivision 1. **Establishment.** Any county or combination of counties by resolution of the county board or boards may establish a rural development financing authority as a public nonprofit corporation. An authority has the powers and duties conferred and imposed on a private nonprofit corporation by chapter 317A, except as otherwise or additionally provided herein. No such authority shall transact any business or exercise any powers until a certified copy of the resolutions of each participating county board has been submitted to the secretary of state and a certificate of incorporation issued pursuant to section 317A.155. Each resolution shall include all of the provisions required by section 317A.111, subdivision 1. Alternatively, a county may determine by resolution of the county board to exercise the powers granted in this chapter to a rural development finance authority. No filing is required.

Subd. 2. **Board.** Each rural development financing authority shall be managed and controlled by a board of directors consisting of that number of persons equal to the number of counties establishing the authority, but in no case less than five. The directors shall be elected by the establishing county board or boards and each county board shall have one vote. The directors initially elected shall serve staggered terms designated by the electing board or boards. Thereafter, all directors shall be elected for five-year terms and until their successors are elected and qualify. Each vacancy in an unexpired term shall be filled in the manner in which the original appointment was made. Each director shall be a resident of the establishing county and no director shall hold any other public office or be an officer, employee, director, shareholder, or member of any corporation, firm, or association with which the authority has entered into any operating or lease agreement. Directors may be removed by the appointing board or boards for the reasons and in the manner prescribed by section 469.010, and shall receive no compensation

other than reimbursement for expenses incurred in the performance of their duties. Directors shall have no personal liability for corporate obligations of the authority or the methods of enforcement and collection thereof.

Subd. 3. **Articles of incorporation; bylaws.** Rural development financing authorities shall have no capital stock. Sections 469.142 to 469.151 shall constitute their articles of incorporation. An authority may adopt bylaws consistent with sections 469.142 to 469.151.

History: *1987 c 291 s 145; 1989 c 304 s 136*

469.145 FINANCING PROJECTS AND FACILITIES.

An authority may provide funds for its purposes by the following methods:

(1) issuing bonds of the authority as authorized by section 469.146, subdivision 1; and

(2) issuing notes of the authority as authorized by section 469.146, subdivision 2.

History: *1987 c 291 s 146*

469.146 ISSUANCE OF BONDS AND NOTES.

Subdivision 1. **Bonds.** For the purposes authorized in section 469.142, the authority may issue bonds and execute mortgages and contracts, pledge revenues, and enter into covenants and agreements for the security thereof in the same manner and subject to the same conditions as a municipality under the provisions of sections 469.152 to 469.165 except as otherwise and additionally provided in sections 469.142 to 469.151. Net rentals and other charges payable to the authority by the operator or lessee of any project and pledged by the authority for payment of its bonds and interest thereon, and for the creation and maintenance of reserves therefor, may be reduced by amounts not exceeding the payments actually received by the authority from the other sources described in sections 469.142 to 469.151.

Subd. 2. **Notes.** The authority may issue notes, including renewal notes, for any purpose for which bonds may be issued, whenever the authority determines that payment thereof can be made in full from any revenues the authority expects to receive from any source. The notes may be issued to provide funds to pay preliminary costs of surveys, plans, development, or other matters relating to any proposed or existing project. The authority may pledge the revenues, subject to any other pledge thereof, for the payment of the notes, and may secure the notes in the same manner and with the same effect as herein provided for bonds and may also secure the notes by the personal guarantee of property owners within a benefited area. The authority may make contracts for the future sale of the notes, by which the purchaser shall be committed to purchase the notes on terms and conditions stated in such contracts. The authority may pay the consideration it deems proper for the commitments.

Subd. 3. **Secondary market.** An authority may 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.

History: *1987 c 291 s 147; 1988 c 580 s 6*

469.147 PROCESSING AGREEMENT.

The authority may enter into agreements with owners of agricultural land, within or outside the state, providing for payment of charges for the use and availability of any project for processing products of the land, to pay part or all of the capital cost incurred by the authority. The charges may be made payable in fixed amounts, or in installments with interest at an agreed rate, or in amounts proportionate to the volume of products processed, or in any combination of these ways. The agreements may bind landowners to devote a specified acreage to production for processing by the project, or may bind the authority and the operator of the project to cause specified quantities to be processed, or both, for periods as may be agreed. Charges payable by landowners to the authority under the agreements may be pledged by it to pay or guarantee the payment of its bonds, or may be used by the authority for the purposes stated in section 469.142.

History: *1987 c 291 s 148*

469.148 APPLICATIONS FOR LOAN GUARANTIES.

The authority, or a county exercising the powers of an authority pursuant to section 469.144, may undertake or participate in undertaking a project deemed to further the policies and purposes of the agricultural resource loan guaranty program established and described in sections 41A.01 to 41A.06, by applying to the Minnesota Agricultural and Economic Development Board for a guaranty by the state of a portion of a loan for the project to be secured by the applicant, or by another eligible borrower. For this purpose it may do all acts required of an applicant or of a borrower under the provisions of sections 41A.01 to 41A.06, including the computation, segregation, and application of tax increments by deposit in the loan guaranty fund under the terms of the loan guaranty.

History: *1987 c 291 s 149; 1987 c 386 art 9 s 20*

469.149 AGREEMENTS FOR RESERVATION OF TAX INCREMENTS.

The authority may enter into an agreement with any county in which a project is to be situated, or a county exercising the powers of an authority may adopt a resolution, under which an agricultural resource project for which a conditional commitment for a loan guaranty has been made by the state as provided in section 41A.04, subdivision 3, is a tax increment financing project under sections 469.174 to 469.179 for so long as may be provided in the loan guaranty. The tax

increment from the agricultural resource project shall be remitted to the authority or to the county for deposit and use in the loan guaranty fund of the state as provided in sections 41A.01 to 41A.06. Notwithstanding section 469.154, the tax increment for an agricultural resource project shall be discharged when either of the following occurs: (1) the loan obligation has been satisfied; or (2) the amount in the project account equals the amount of the guaranteed portion of the outstanding principal and interest on the guaranteed loan. Every county may, by resolution of the county board, do all things necessary for the computation, segregation, and application of tax increments under the loan guaranty in accordance with this section and sections 469.174 to 469.179.

History: *1987 c 291 s 150*

469.150 [Repealed, 1996 c 471 art 7 s 34]

469.151 STATE AND COUNTY NOT LIABLE ON BONDS.

The bonds and other obligations of an authority shall not be the debt of the state of Minnesota or of any county or political subdivision.

History: *1987 c 291 s 152*

MUNICIPAL INDUSTRIAL DEVELOPMENT

469.152 PURPOSES.

The welfare of the state requires the active promotion, attraction, encouragement, and development of economically sound industry and commerce through governmental action for the purpose of preventing the emergence of blighted and marginal lands and areas of chronic unemployment. It is the policy of the state to facilitate and encourage action by local government units to prevent the economic deterioration of such areas to the point where the process can be reversed only by total redevelopment through the use of local, state, and federal funds derived from taxation, necessitating relocating displaced persons and duplicating public services in other areas. By the use of the powers and procedures described in sections 469.152 to 469.165, local government units and their agencies and authorities responsible for redevelopment and economic development may prevent occurrence of conditions requiring redevelopment, or aid in the redevelopment of existing areas of blight, marginal land, and avoidance of substantial and persistent unemployment.

The welfare of the state further requires the provision of necessary health care facilities, so that adequate health care services are available to residents of the state at reasonable cost. The welfare of the state further requires the provision of county jail facilities for the purpose of providing adequately for the care, control, and safeguarding of civil rights of prisoners. The welfare of the state requires that, whenever feasible, employment opportunities made available in

part by sections 469.152 to 469.165 or other state law providing for similar financing mechanisms should be offered to individuals who are unemployed or who are economically disadvantaged.

The welfare of the state further requires that, whenever feasible, action should be taken to reduce the cost of borrowing by local governments for public purposes.

History: *1987 c 291 s 153; 1989 c 355 s 4*

469.153 DEFINITIONS.

Subdivision 1. **Generally.** In sections 469.152 to 469.165, the terms defined in this section have the meanings given them herein, unless the context indicates a different meaning.

Subd. 2. **Project.** (a) "Project" means (1) any properties, real or personal, used or useful in connection with a revenue producing enterprise, or any combination of two or more such enterprises engaged or to be engaged in generating, transmitting, or distributing electricity, assembling, fabricating, manufacturing, mixing, processing, storing, warehousing, or distributing any products of agriculture, forestry, mining, or manufacture, or in research and development activity in this field; (2) any properties, real or personal, used or useful in the abatement or control of noise, air, or water pollution, or in the disposal of solid wastes, in connection with a revenue producing enterprise, or any combination of two or more such enterprises engaged or to be engaged in any business or industry; (3) any properties, real or personal, used or useful in connection with the business of telephonic communications, conducted or to be conducted by a telephone company, including toll lines, poles, cables, switching, and other electronic equipment and administrative, data processing, garage, and research and development facilities; (4) any properties, real or personal, used or useful in connection with a district heating system, consisting of the use of one or more energy conversion facilities to produce hot water or steam for distribution to homes and businesses, including cogeneration facilities, distribution lines, service facilities, and retrofit facilities for modifying the user's heating or water system to use the heat energy converted from the steam or hot water.

(b) "Project" also includes any properties, real or personal, used or useful in connection with a revenue producing enterprise, or any combination of two or more such enterprises engaged in any business.

(c) "Project" also includes any properties, real or personal, used or useful for the promotion of tourism in the state. Properties may include hotels, motels, lodges, resorts, recreational facilities of the type that may be acquired under section 471.191, and related facilities.

(d) "Project" also includes any properties, real or personal, used or useful in connection with a revenue producing enterprise, whether or not operated for profit, engaged in providing health care services, including hospitals, nursing homes, and related medical facilities.

(e) "Project" does not include any property to be sold or to be affixed to or consumed in the production of property for sale, and does not include any housing facility to be rented or used as a permanent residence.

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

(g) "Project" also includes any properties, real or personal, used or useful in connection with a county jail, county regional jail, community corrections facilities authorized by chapter 401, or other law enforcement facilities, the plans for which are approved by the commissioner of corrections; provided that the provisions of section 469.155, subdivisions 7 and 13, do not apply to those projects.

(h) "Project" also includes any real properties used or useful in furtherance of the purpose and policy of section 469.141.

(i) "Project" also includes related facilities as defined by section 471A.02, subdivision 11.

(j) "Project" also includes an undertaking to purchase the obligations of local governments located in whole or in part within the boundaries of the municipality that are issued or to be issued for public purposes.

Subd. 3. **Municipality.** "Municipality" means any home rule charter or statutory city, any town described in section 368.01, and any county if (1) the project is located outside the boundaries of a city or a town described in section 368.01 or (2) the project involves telephonic communications conducted by or to be conducted by a telephone company, or financial or other assistance to rail users as defined in section 222.48, subdivision 6, for the purpose of making capital investment loans for rail line rehabilitation. In any case in which a city or town described in section 368.01 has consented to the issuance of bonds by a county on behalf of an organization described in section 501(c)(3) of the Internal Revenue Code of 1986, as amended through December 31, 1986, to finance a project within its boundaries or to refund bonds previously issued by such city or town, "municipality" means any county.

Subd. 4. **Redevelopment agency.** "Redevelopment agency" means any port authority referred to in sections 469.048 to 469.068, or any city authorized by general or special law to exercise the powers of a port authority; any economic development authority referred to in sections 469.090 to 469.108; any housing and redevelopment authority referred to in sections 469.001 to 469.047 or any body authorized to exercise the powers of a housing and redevelopment authority;

and any area or municipal redevelopment agency referred to in sections 469.109 to 469.123.

Subd. 5. **Commissioner.** "Commissioner" means the commissioner of employment and economic development.

Subd. 6. **Department.** "Department" means the Department of Employment and Economic Development.

Subd. 7. **Telephone company.** "Telephone company" means any person, firm, association, including a cooperative association formed pursuant to chapter 308A, or corporation, excluding municipal telephone companies, operating for hire any telephone line, exchange, or system, wholly or partly within this state.

Subd. 8. **Contracting party.** "Contracting party" means a party to a revenue agreement other than the municipality or redevelopment agency.

Subd. 9. **Revenues.** "Revenues" of a project include payments under a revenue agreement, or under notes, debentures, bonds, and other secured or unsecured debt obligations of a contracting party.

Subd. 10. **Revenue agreement.** "Revenue agreement" means any written agreement between a municipality or redevelopment agency and a contracting party with respect to a project, whereby the contracting party agrees to pay to the municipality or redevelopment agency or its order amounts sufficient at all times to pay when due the principal of, premium, if any, and interest on all bonds issued by the municipality or redevelopment agency with respect to that project. A revenue agreement may be in the form of a lease, mortgage, direct or installment sale contract, loan agreement, take or pay or similar agreement, and be secured in manner the parties agree or be unsecured. A revenue agreement must satisfy the requirements of section 469.155, subdivision 5.

Subd. 11. **Trustee.** "Trustee" means any corporation, bank, or other entity authorized under any law of the United States or of any state to exercise trust powers, or any natural person, acting as trustee, cotrustee or successor trustee under an indenture pursuant to designation of the municipality or redevelopment agency.

Subd. 12. **Alternative energy.** "Alternative energy" means any energy source which does not depend upon nuclear fuel or nonrenewable fossil fuel, or which makes available another energy source which currently is wasted and which includes, but is not limited to, cogeneration or district heating.

Subd. 13. **Related public improvements.** "Related public improvements" means any public improvements described in section 429.021, that are acquired and constructed in connection with the project and are financed by the contracting party under the revenue agreement.

History: *1987 c 291 s 154,243; 1987 c 312 art 1 s 26 subd 2; 1987 c 344 s 18; 1989 c 355 s*

5; 1989 c 356 s 19; 1992 c 511 art 9 s 19; 2002 c 390 s 9; 1Sp2003 c 4 s 1; 2008 c 277 art 1 s 86

469.154 DUTIES OF DEED.

Subdivision 1. **Generally.** The Department of Employment and Economic Development shall investigate, assist, and advise municipalities, and report to the governor and the legislature concerning the operation of sections 469.152 to 469.165 and the projects undertaken under those sections.

Subd. 2. **Local request for assistance.** Any municipality or redevelopment agency contemplating the exercise of the powers granted by sections 469.152 to 469.165 may apply to the commissioner for information, advice, and assistance. The commissioner may handle such preliminary information in a confidential manner, to the extent requested by the municipality.

Subd. 3. **Conditions; approval.** No municipality or redevelopment agency shall undertake any project authorized by sections 469.152 to 469.165, except a project referred to in section 469.153, subdivision 2, paragraph (g) or (j), unless its governing body finds that the project furthers the purposes stated in section 469.152, nor until the commissioner has approved the project, on the basis of preliminary information the commissioner requires, as tending to further the purposes and policies of sections 469.152 to 469.165. The commissioner may not approve any projects relating to health care facilities except as permitted under subdivision 6. Approval shall not be deemed to be an approval by the commissioner or the state of the feasibility of the project or the terms of the revenue agreement to be executed or the bonds to be issued therefor, and the commissioner shall state this in communicating approval.

Subd. 4. **Hearing.** Prior to submitting an application to the department requesting approval of a project pursuant to subdivision 3, the governing body or a committee of the governing body of the municipality or redevelopment agency shall conduct a public hearing on the proposal to undertake and finance the project. Notice of the time and place of hearing, and stating the general nature of the project and an estimate of the principal amount of bonds or other obligations to be issued to finance the project, shall be published at least once not less than 14 days nor more than 30 days prior to the date fixed for the hearing, in the official newspaper and a newspaper of general circulation of the municipality or redevelopment agency. The notice shall state that a draft copy of the proposed application to the department, together with all attachments and exhibits, shall be available for public inspection following the publication of the notice and shall specify the place and times where and when it will be so available. The governing body of the municipality or the redevelopment agency shall give all parties who appear at the hearing an opportunity to express their views with respect to the proposal to undertake and finance the project. Following the completion of the public hearing, the governing body of the municipality or redevelopment agency shall adopt a resolution determining whether or not to proceed with the

project and its financing; it may thereafter apply to the department for approval of the project.

Subd. 5. **Information to Employment and Economic Development Department.** Each municipality and redevelopment agency upon entering into a revenue agreement, except one pertaining to a project referred to in section 469.153, subdivision 2, paragraph (g) or (j), shall furnish the Employment and Economic Development Department on forms the department prescribes the following information concerning the project: The name of the contracting party, the nature of the enterprise, the location, approximate number of employees, the general terms and nature of the revenue agreement, the amount of bonds or notes issued, and other information the Employment and Economic Development Department deems advisable. The Employment and Economic Development Department shall keep a record of the information which shall be available to the public at times the department prescribes.

Subd. 6. [Repealed, 1997 c 203 art 4 s 73]

Subd. 7. **Employment preference.** Every municipality, redevelopment agency, or other person undertaking a project financed wholly or in part under sections 469.152 to 469.165 or by similar financing mechanisms is encouraged to target employment opportunities to qualified individuals who are unemployed or economically disadvantaged as defined in the federal Job Training Partnership Act of 1982, Statutes at Large, volume 96, page 1322. The intent of this subdivision may be accomplished by mechanisms such as a first source agreement in which the employer agrees to use a designated employment office as a first source for employment recruitment, referral, and placement, and by other means.

Not later than July 1, 1987, every municipality, redevelopment agency, or other person who undertakes a project financed wholly or in part by these financing mechanisms shall submit an employment report to the energy and economic development authority. The report shall be on forms provided by the Energy and Economic Development Authority and shall include, but need not be limited to, the following information:

(1) the total number of jobs created by the project;

(2) the number of unemployed and economically disadvantaged persons hired; and

(3) the average wage level of the jobs created.

History: *1987 c 291 s 155; 1987 c 312 art 1 s 26 subd 2; 1989 c 355 s 6,7; 2002 c 379 art 1 s 95; 1Sp2003 c 4 s 1*

469.155 POWERS.

Subdivision 1. **General.** Any municipality or redevelopment agency has the powers set forth in this section.

Subd. 2. **Project acquisition.** It may acquire, construct, and hold any lands, buildings,

easements, water and air rights, improvements to lands and buildings, and capital equipment to be located permanently or used exclusively on a designated site and solid waste disposal and pollution control equipment, and alternative energy equipment and inventory, regardless of where located, that are deemed necessary in connection with a project to be situated within the state, and construct, reconstruct, improve, better, and extend the project. It may also pay part or all of the cost of an acquisition and construction by a contracting party under a revenue agreement.

In the case of a project described in section 469.153, subdivision 2, paragraph (j), it may purchase obligations issued by a local unit of government that is located in whole or in part within the boundaries of the municipality at public sale, or at private sale if the obligations may be sold in that manner under the law authorizing their issuance. The obligations must be issued under a capital improvement plan or program of at least five years.

Subd. 3. **Revenue bonds.** (a) It may issue revenue bonds, in anticipation of the collection of revenues of a project to be situated within the state, to finance, in whole or in part, the cost of the acquisition, construction, reconstruction, improvement, betterment, or extension thereof and of any related public improvements.

(b) It may issue revenue bonds to purchase the obligations of local government units located in whole or in part within the boundaries of the municipality. The proceeds of bonds issued to purchase obligations as provided under this paragraph may be disbursed or otherwise used to pay underwriter's or placement fees, expenses, or other costs of issuance and sale for the bonds only on a pro rata basis determined with respect to the portion of the proceeds that are used to purchase the obligations. The municipality may not pay the underwriter's or placement fees, expenses, or other costs of issuance and sale out of other money.

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 a qualifying organization 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, paragraph (b), (c), or (d).

For purposes of this subdivision, "qualifying organization" means an organization that is primarily engaged in one or more of the following:

(1) health care related activities;

(2) activities for mentally or physically disabled persons;

(3) the operation of one or more nonprofit hospitals or nursing homes;

(4) educational activities as an elementary, secondary, or postsecondary school;

(5) presentation of artistic performances or arts education, such as theaters and museums; or

(6) providing social services, such as providing assistance to the poor, distressed, or underprivileged.

Subd. 5. **Revenue agreements.** It may enter into a revenue agreement with any person, firm, or public or private corporation or federal or state governmental subdivision or agency so that payments required thereby to be made by the contracting party are fixed and revised as necessary to produce income and revenue sufficient to provide for the prompt payment of principal of and interest on all bonds issued hereunder when due. The revenue agreement must also provide that the contracting party is required to pay all expenses of the operation and maintenance of the project including adequate insurance thereon and insurance against all liability for injury to persons or property arising from its operation, and all taxes and special assessments levied upon or with respect to the project and payable during the term of the revenue agreement. During the term of the revenue agreement, except as provided in subdivision 17, a tax shall be imposed and collected upon the project or, pursuant to the provisions of section 272.01, subdivision 2, for the privilege of using and possessing the project, in the same amount and to the same extent as though the contracting party were the owner of all real and personal property comprising the project. No revenue agreement is required in connection with a project described in section 469.153, subdivision 2, paragraph (j).

Subd. 6. **Pledge of revenues.** It may pledge and assign to the holders of the bonds or a trustee therefor all or any part of the revenues of one or more projects and define and segregate the revenues or provide for the payment thereof to a trustee, whether or not the trustee is in possession of the project under a mortgage or otherwise.

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

Subd. 8. **Implementation of powers and covenants; construction and acquisition by contracting party.** It may make all contracts, execute all instruments, and do all things necessary or convenient in the exercise of the powers granted in sections 469.152 to 469.165, or in the performance of its covenants or duties, or in order to secure the payment of its bonds. It may enter

into a revenue agreement authorizing the contracting party, subject to any terms and conditions the municipality or redevelopment agency finds necessary or desirable and proper, to provide for the construction, acquisition, and installation of the buildings, improvements, and equipment to be included in the project and any related public improvements by any means legally available to the contracting party and in the manner determined by the contracting party and without advertisement for bids unless advertisement by the contracting party is otherwise required by law.

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

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

Subd. 11. **Conveyance of projects.** It may sell and convey all properties acquired in connection with projects, including the sale and conveyance thereof subject to a mortgage, or the sale and conveyance thereof under an option granted to the lessee of the project, for the price, and at the time the governing body of the municipality or redevelopment agency determines. No sale or conveyance of the properties may be made in a manner that impairs the rights or interests of the holders of any bonds issued under the authority of sections 469.152 to 469.165.

Subd. 12. **Refunding.** It may issue revenue bonds to refund, in whole or in part, bonds previously issued by the municipality or redevelopment agency under authority of sections 469.152 to 469.165, and interest on them. The municipality or redevelopment agency may issue revenue bonds to refund, in whole or in part, bonds previously issued by any other municipality or redevelopment agency on behalf of an organization described in section 501(c)(3) of the Internal Revenue Code of 1986, as amended through December 31, 1990, under authority of sections 469.152 to 469.155, and interest on them, but only with the consent of the original

issuer of such bonds. The municipality or redevelopment agency may issue and sell warrants which give to their holders the right to purchase refunding bonds issuable under this subdivision prior to a stipulated date. The warrants are not required to be sold at public sale and all or any agreed portion of the proceeds of the warrants may be paid to the contracting party under the revenue agreement required by subdivision 5 or to its designee under the conditions the municipality or redevelopment agency shall agree upon. Warrants shall not be issued which obligate a municipality or redevelopment agency to issue refunding bonds that are or will be subject to federal tax law as defined in section 474A.02, subdivision 8. The warrants may provide a stipulated exercise price or a price that depends on the tax exempt status of interest on the refunding bonds at the time of issuance. The average interest rate on refunding bonds issued upon the exercise of the warrants to refund fixed rate bonds shall not exceed the average interest rate on fixed rate bonds to be refunded. The municipality or redevelopment agency may appoint a bank or trust company to serve as agent for the warrant holders and enter into agreements deemed necessary or incidental to the issuance of the warrants.

Subd. 13. **Termination of revenue agreement.** If so provided in the revenue agreement, it may terminate the agreement and reenter or repossess the project upon the default of the contracting party, and operate, lease, or sell the project in the manner authorized or required by the provisions of the revenue agreement or of the resolution or indenture securing the bonds issued for the project. If it undertakes to operate the project, it may hold in its own name all necessary operating licenses including licenses for the sale of food and intoxicating liquors. Any revenue agreement which includes provision for a conveyance of real estate to the contracting party may be terminated in accordance with the revenue agreement, notwithstanding that the revenue agreement may constitute an equitable mortgage.

Subd. 14. **Limitations on powers.** It may not operate any project referred to in sections 469.152 to 469.165 as a business or in any manner, except as authorized in subdivision 13. Nothing in this section authorizes any municipality or redevelopment agency to expend any funds on any project, other than the revenues of the project, or the proceeds of revenue bonds and notes issued hereunder, or other funds granted to the municipality or redevelopment agency for the purposes of sections 469.152 to 469.165, except:

(1) as is otherwise permitted by law;

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

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

Subd. 15. **Investment and deposit of funds.** It may invest or deposit, or authorize a trustee to invest or deposit, any proceeds of revenue bonds or notes issued pursuant to sections 469.152 to 469.165, and income from the investment of the proceeds, in any manner and upon any terms and conditions agreed to by the contracting party under the related revenue agreement, resolution, or indenture, notwithstanding chapter 118A, but subject to any statutory provisions which govern the deposit and investment of funds of a contracting party which is itself a governmental subdivision or agency.

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

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

Subd. 18. **Foreclosure.** Upon foreclosure of any mortgage securing a revenue agreement entered into with respect to revenue bonds issued under this section, the city, trustee, or other mortgagee may determine that the mortgage debt for purposes of chapters 580, 581, 582, and 583 is the revenue agreement debt and does not include the bond debt, or the mortgagee may determine that the mortgage debt includes both the revenue agreement debt and the bond debt. The notice of sale or complaint shall state whether the foreclosure is to enforce only the revenue agreement debt or both the revenue agreement debt and the bond debt. If the mortgagee determines that the foreclosure is to enforce only the revenue agreement debt and not the bond debt:

(1) the revenue agreement debt is the mortgage debt for all purposes under chapters 580, 581, 582, and 583;

(2) the bond debt will remain outstanding as a valid and continuing separate debt and will not be extinguished, satisfied, relinquished, or otherwise terminated by the foreclosure sale; and

(3) the city or mortgagee may enter into a revenue agreement with the purchaser of the mortgaged property or a subsequent transferee, which provides for satisfaction by payment in full or otherwise of all principal of and interest on the bonds then in arrears and to become due.

History: *1987 c 291 s 156,243; 1987 c 344 s 19; 1988 c 465 s 1; 1988 c 702 s 6; 1989 c 355 s 8-10; 1990 c 426 art 1 s 50; 1990 c 520 s 4; 1991 c 342 s 14; 1992 c 545 art 2 s 6; 1996 c 399 art 2 s 7; 1997 c 203 art 4 s 61; 1999 c 248 s 8; 2002 c 390 s 10-12*

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 powers 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: *1987 c 291 s 157; 1999 c 199 art 2 s 17*

469.157 DETERMINATION OF COST OF PROJECT.

In determining the cost of a project, the governing body may include all cost and estimated cost of the acquisition, construction, reconstruction, improvement, betterment, and extension of the project and any related public improvements, all engineering, inspection, fiscal, legal, administrative, and printing expense, the interest which it is estimated will accrue during the construction period and for six months thereafter on money borrowed or which it is estimated will be borrowed pursuant to sections 469.152 to 469.165, and bond reserves and premiums for insurance of lease rentals pledged to pay the bonds.

History: *1987 c 291 s 158; 2002 c 390 s 13*

469.158 MANNER OF ISSUANCE OF BONDS; INTEREST RATE.

Bonds authorized under sections 469.152 to 469.165 must be issued in accordance with the provisions of chapter 475 relating to bonds payable from income of revenue producing conveniences, except that public sale is not required, the provisions of sections 475.62 and 475.63 do not apply, and the bonds may mature at the time or times, in the amount or amounts, within 40 years from date of issue, and may be sold at a price equal to the percentage of the par value thereof, plus accrued interest, and bearing interest at the rate or rates agreed by the contracting party, the purchaser, and the municipality or redevelopment agency, notwithstanding any limitation of interest rate or cost or of the amounts of annual maturities contained in any other law. Bonds issued to refund bonds previously issued pursuant to sections 469.152 to 469.165 may be issued in amounts determined by the municipality or redevelopment agency notwithstanding the provisions of section 475.67, subdivision 3.

History: *1987 c 291 s 159; 1994 c 614 s 10; 2005 c 152 art 1 s 16*

469.159 TEMPORARY LOANS.

After authorization of bonds pursuant to section 469.156, the governing body may provide funds immediately required for the purpose and not exceeding the amount of the bonds, by effecting temporary loans upon the terms it determines by resolution. The loans shall be evidenced by notes subject to the provisions of section 469.162, due in not exceeding 24 months from the date thereof, payable to the order of the lender or to bearer, to be repaid with interest from the proceeds of the bonds when issued and delivered to the purchaser. The temporary loans may be made without any public advertisement.

History: *1987 c 291 s 160*

469.160 VALIDITY OF BONDS; PRESUMPTION.

The validity of bonds or notes issued under sections 469.152 to 469.165 shall not depend on nor be affected by the validity or regularity of any proceedings relating to the acquisition, purchase, construction, reconstruction, improvement, betterment, or extension of the project for which they are issued. The ordinance or resolution authorizing the bonds or notes may provide that the bonds or notes shall contain a recital that they are issued pursuant to sections 469.152 to 469.165, and the recital shall be conclusive evidence of their validity and of the regularity of their issuance.

History: *1987 c 291 s 161*

469.161 LIMITATION OF POWERS BY RESOLUTION OR ORDINANCE.

Any ordinance, resolution, revenue agreement, indenture, or other instrument authorizing the issuance of bonds under sections 469.152 to 469.165 to finance, in whole or in part, the acquisition, construction, reconstruction, improvement, betterment, or extension of any project may contain covenants, notwithstanding that the covenants may limit the exercise of powers conferred by sections 469.152 to 469.165 as to:

(1) the rents or installment payments to be charged for the use or purchase of properties acquired, constructed, reconstructed, improved, bettered, or extended under the authority of sections 469.152 to 469.165;

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

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

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

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

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

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

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

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

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

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

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

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

(14) the terms and conditions upon which the holder or holders of the bonds, or the holders of any proportion or percentage of them, may enforce any covenants made under sections 469.152 to 469.165 or any duties imposed thereby;

(15) a procedure by which the terms of any ordinance or resolution authorizing bonds or of any other contract with bondholders, including an indenture of trust or similar instrument, may be amended or abrogated, and the amount of bonds the holders of which must consent thereto, and the manner in which the consent may be given; and

(16) the subordination of the security of any bonds issued under sections 469.152 to 469.165 and the payment of principal and interest thereof, to the extent deemed feasible and desirable by the governing body, to other bonds or obligations of the municipality or redevelopment agency issued to finance the project or that may be outstanding when the bonds thus subordinated are issued and delivered.

History: *1987 c 291 s 162*

469.162 SOURCE OF PAYMENT FOR BONDS.

Subdivision 1. **Restrictions on payment.** Revenue bonds issued under sections 469.152 to

469.165 shall not be payable from nor charged upon any funds other than the revenue pledged to their payment, except as provided in this section, nor shall the municipality or redevelopment agency issuing the same be subject to any liability on them. No holder of the bonds shall ever have the right to compel any exercise of the taxing power of the municipality or redevelopment agency to pay the bonds or the interest thereon, except as provided in subdivision 2, nor to enforce payment of them against any property of the municipality or redevelopment agency except those projects, or portions thereof, mortgaged or otherwise encumbered under the provisions and for the purpose of sections 469.152 to 469.165.

Subd. 2. **Tax increments; pre-1979 projects.** (a) Any municipality or redevelopment agency may request the county auditor of the county in which a project is situated to certify the original net tax capacity of the real property included therein and the tax increments realized each year after the commencement of the project, as defined in section 469.042, and shall be entitled to receive, use, and pledge the tax increments for the further security of the revenue bonds issued to finance the project, in either of the following ways:

(1) to pay premiums for insurance guaranteeing the payment of net rentals when due under the project lease; or

(2) to accumulate and maintain a reserve securing the payment when due of the principal of and interest on the bonds.

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

Subd. 3. **Restrictions on security.** Bonds issued under sections 469.152 to 469.165 shall not constitute a charge, lien, or encumbrance, legal or equitable, upon any property of the municipality or redevelopment agency, except those projects, or portions thereof, mortgaged or otherwise encumbered under the provisions and for the purposes of sections 469.152 to 469.165. Each bond issued under sections 469.152 to 469.165 shall recite in substance that the bond, including interest thereon, is payable solely from the revenue pledged to its payment, but may contain a reference to the lease insurance or bond reserve for which the tax increment is pledged and appropriated. No such bond shall constitute a debt of the municipality or redevelopment

agency within the meaning of any constitutional or statutory limitation. However, nothing herein shall impair the rights of holders of bonds issued hereunder to enforce covenants made for the security thereof as provided in section 469.163.

History: *1987 c 291 s 163; 1988 c 719 art 5 s 84; 1989 c 329 art 13 s 20*

469.163 BONDHOLDERS' RIGHTS AND REMEDIES.

Subject to any contractual limitations binding upon the holders of any issue of revenue bonds, or a trustee therefor, including the restriction of the exercise of any remedy to a specified proportion or percentage of the holders, any holder of bonds, or any trustee therefor, for the equal benefit and protection of all bondholders similarly situated, may:

(1) by suit, action, or proceeding at law or in equity, enforce the bondholder's or trustee's rights against the municipality or redevelopment agency and its governing body and any of its officers, agents, and employees, and may require and compel the municipality, redevelopment agency, or governing body, or any officers, agents, or employees to perform and carry out its and their duties and obligations under sections 469.152 to 469.165 and its and their covenants and agreements with bondholders;

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

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

(4) bring suit upon the bonds;

(5) foreclose any mortgage or lien given under the authority of sections 469.152 to 469.165, and cause the property standing as security to be sold under any proceedings permitted by law or equity; and

(6) exercise any right or remedy conferred by sections 469.152 to 469.165 without exhausting and without regard to any other right or remedy conferred by sections 469.152 to 469.165 or any other law of this state. None of these rights and remedies is intended to be exclusive of any other, and each is in addition to every other right and remedy.

History: *1987 c 291 s 164*

469.164 POWERS ADDED TO APPLICATION OF EXISTING LAWS AND RULES.

Subdivision 1. **Generally.** The powers conferred by sections 469.152 to 469.165 are in addition to the powers conferred by any other law or charter. Insofar as the provisions of any other law or charter are inconsistent with sections 469.152 to 469.165, the provisions of these sections shall be controlling as to projects instituted under these sections. Section 334.01 shall not apply to any interest rate charged or attributable to any obligation of a contracting party or sublessee or

subtenant of a contracting party in connection with any project for which the proceedings are conducted, wholly or partly, pursuant to sections 469.152 to 469.165.

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: *1987 c 291 s 165; 1Sp2001 c 4 art 6 s 77*

469.165 APPLICABILITY OF HRA PROVISIONS.

If property that has been acquired by a housing and redevelopment authority pursuant to the provisions of sections 469.001 to 469.047, is sold, leased, or acquired with the consent of the housing and redevelopment authority in connection with a project conducted wholly or partly pursuant to the provisions of sections 469.152 to 469.164, it shall be deemed to be devoted to public purposes and public uses and to conform to the project area redevelopment plan within the meaning of sections 469.001 to 469.047. In giving its consent, the housing and redevelopment authority may waive any or all of the terms, conditions, restrictions, and limitations imposed upon the property by section 469.029, and the purchaser of the property or any subsequent purchasers may convey the property without the consent of any housing and redevelopment authority and, to the extent of the waiver, free and clear of the terms, conditions, restrictions, and limitations, whether or not the purchaser is obligated as provided in section 469.029, subdivision 5.

History: *1987 c 291 s 166*

469.1651 REVENUE ANTICIPATION NOTES FOR HOSPITALS.

Subdivision 1. **Authorization.** Prior to August 1, 1990, a municipality may issue and sell, at public or private sale, negotiable notes or certificates of indebtedness, as provided in this section and lend the proceeds to nonprofit hospitals in anticipation of revenues or state and federal aids payable to the hospitals within one year after the date of issue of the notes or certificates of indebtedness. The principal amount of the notes or certificates shall not exceed 75 percent of the accounts receivable and third-party reimbursement payments payable to the hospital as of a date within 45 days of the date of issuance. While notes or certificates issued under this section on behalf of a hospital are outstanding, additional notes or certificates shall not be issued unless, for the period of 30 consecutive days immediately preceding the date of issuance, the amount of outstanding notes and certificates was less than six percent of the hospital's gross revenues

for the preceding fiscal year.

The municipality need not comply with the procedures set forth in sections 469.152 to 469.165 in the issuance of notes or certificates of indebtedness pursuant to this section, but the municipality shall comply with sections 469.152 to 469.165 at the time of issuance of the refunding obligations if long-term obligations are issued to refund notes or certificates of indebtedness issued pursuant to this section.

Subd. 2. **Revenue agreement.** No notes or certificates of indebtedness shall be issued pursuant to this section unless the municipality has entered into a revenue agreement with a qualifying hospital providing for payment by the hospital of all principal of and interest on the notes or certificates of indebtedness when they become due and payable, together with any expenses and fees of the municipality incurred in connection with the notes or their issuance. Notes and certificates of indebtedness issued under authority of this section do not, and shall state that they do not, represent or constitute a debt or pledge of the faith and credit of the municipality or the state of Minnesota, or grant to their owners or holders any right to have the municipality or state levy any taxes or appropriate any funds for the payment of their principal or interest on them. The notes or certificates are payable and shall state that they are payable solely from the revenues and other property, income, accounts, charges, and money that are pledged for their payment in accordance with the proceedings authorizing their issuance.

Subd. 3. **Enabling resolution; form of certificates.** The municipality may authorize and effect the borrowing and issue the notes or certificates of indebtedness authorized by this section upon passage of a resolution specifying the amount and purposes of the borrowing. The municipality shall fix the amount, date, maturity, form, denomination, and other details of the notes or certificates of indebtedness, consistent with this section, and shall fix the date and place for the receipt of bids for their purchase, if the notes or certificates of indebtedness are to be sold by public sale.

Subd. 4. **Repayment; maturity date; interest.** The proceeds of revenues and future state and federal aid and other funds of the hospital which may become available shall be applied to the extent necessary to repay the notes or certificates of indebtedness. The full faith and credit of the hospital, or any other lawfully pledged security of the hospital, as deemed necessary by the municipality, shall be pledged to their payment. Notes or certificates of indebtedness issued pursuant to this section shall mature not later than 13 months after the date of issue. The notes or certificates shall be sold at such price as the municipality may agree. The notes or certificates shall bear interest after maturity until paid at the rate they bore before maturity. Any interest accruing before or after maturity shall be paid from any available funds of the hospital.

Any note or certificate of indebtedness issued pursuant to this section may be issued giving its owner the right to tender, or the municipality or the hospital to demand tender of, the obligation

to the municipality or the hospital or another person designated by either of them, for purchase at a specified time or times. The note or certificate of indebtedness shall not be deemed to mature on any tender date, and the purchase of a tendered note or certificate shall not be deemed a payment or discharge of the note or certificate. Notes or certificates of indebtedness tendered for purchase may be remarketed by or on behalf of the municipality or any other purchaser. The municipality or the hospital may enter into agreements deemed appropriate to provide for the purchase and remarketing of tendered notes or certificates of indebtedness, including provisions under which undelivered obligations may be deemed tendered for purchase and new obligations may be substituted for them, provisions for the payment of charges of tender agents, remarketing agents, and financial institutions extending lines of credit or letters of credit assuring repurchase, and for reimbursement of advances under letters of credit, which charges and reimbursements shall be paid by the hospital.

Any notes or certificates of indebtedness issued pursuant to this section may bear interest at a rate varying periodically at the time or times and on the terms, including convertibility to a fixed rate of interest, determined by the governing body of the municipality.

Subd. 5. **Trust agreement.** Any notes or certificates of indebtedness issued under this section may be secured by a trust agreement between the municipality and a corporate trustee, which may be any trust company or bank having the powers of a trust company within the state. The trust agreement or the resolution providing for the issuance of the notes or certificates may pledge or assign the revenues to be received, the proceeds of any contracts pledged, and any other property pledged by the hospital or proceeds from it. The trust agreement or resolution providing for the issuance of the notes or certificates may contain reasonable provisions to protect and enforce the rights and remedies of the holders of the notes or certificates. Any bank or trust company incorporated under the laws of the state that may act as depository of the proceeds of notes or certificates or of revenues or other money may furnish the indemnifying bonds or pledge the securities that may be required by the municipality. The trust agreement may set forth the rights and remedies of the holders of the notes or certificates and of the trustee and may restrict the individual right of action by holders of the notes or certificates. The trust agreement or resolution may contain any other provisions that the municipality deems reasonable for the security of the holders of the notes or certificates. All expenses incurred in carrying out the provisions of the trust agreement or resolution shall be paid by the hospital.

Subd. 6. **Report.** Within 30 days after issuance of notes or certificates under this section, a municipality must report to the commissioner of health on the issuance. The report must include the name and location of the institution, the principal amount of the note or certificate, and its maturity date.

History: *1988 c 702 s 7*

ENTERPRISE ZONES

469.166 DEFINITIONS.

Subdivision 1. **Generally.** In sections 469.166 to 469.173, the terms defined in this section have the meanings given them herein, unless the context indicates a different meaning.

Subd. 2. **Commissioner.** "Commissioner" means the commissioner of employment and economic development.

Subd. 3. **Enterprise zone.** "Enterprise zone" means an area in the state designated as such by the commissioner.

Subd. 4. **City.** "City" means a home rule charter or statutory city.

Subd. 5. **Municipality.** "Municipality" means a city, or a county for an area located outside the boundaries of a city. If an area lies in two or more cities or in both incorporated and unincorporated areas, "municipality" shall include an entity formed pursuant to section 471.59 by the governing bodies of the cities with jurisdiction over the incorporated area and the counties with jurisdiction over the unincorporated area.

Subd. 6. **Governing body.** "Governing body" means the county board in the case of a county, the city council or other body designated by its charter in the case of a city, or the tribal or federal agency recognized as the governing body of an Indian reservation by the United States Secretary of the Interior.

Subd. 7. **HUD.** "HUD" means the United States Secretary of Housing and Urban Development or the secretary's delegate or successor.

Subd. 8. **Indian reservation.** "Indian reservation" means an area determined to be such by the United States Secretary of the Interior.

Subd. 9. **SMSA.** "SMSA" means the area in and around a city of 50,000 inhabitants or more, or an equivalent area, as defined by the United States Secretary of Commerce.

Subd. 10. **Employment property.** (a) "Employment property" means taxable property, excluding land but including buildings, structures, fixtures, and improvements that satisfy each of the following conditions:

(1) the property is located within an enterprise zone designated according to section 469.167;

(2) the property is commercial or industrial property except (i) a facility the primary purpose of which is one of the following: retail food and beverage services, automobile sales or service, or the provision of recreation or entertainment, or a private or commercial golf course, country club, massage parlor, tennis club, skating facility including roller skating, skateboard, and

ice skating, racquet sports facility, including any handball or racquetball court, hot tub facility, suntan facility, or racetrack; (ii) property of a public utility; (iii) property used in the operation of a financial institution; (iv) property owned by a fraternal or veterans' organization; or (v) property of a business operating under a franchise agreement that requires the business to be located in the state; except that, in an enterprise zone designated under section 469.168, subdivision 4, paragraph (a), clause (4), that is not in a city of the first class, employment property includes property used as a retail food or beverage facility or an automobile sales or service facility, and property described in (v) except for property of a retail food or beverage facility.

(b) In the case of property located in a border city zone, "employment property" includes land except in the case of employment property that is assessed pursuant to the first clause of the first sentence of section 273.13, subdivision 24, paragraph (b).

Subd. 11. **Market value.** "Market value" of a parcel of employment property means the value of the taxable property as annually determined pursuant to section 273.12, less (i) the market value of all property existing at the time of application for classification, as last assessed prior to the time of application, and (ii) any increase in the market value of the property referred to in clause (i) as assessed in each year after the employment property is first placed in service. In each year, any change in the values of the employment property and the other property on the land shall be deemed to be proportionate unless caused by a capital improvement or loss.

Subd. 12. **Legislative Advisory Commission.** "Legislative Advisory Commission" means the Legislative Advisory Commission established under section 3.30.

History: *1987 c 268 art 10 s 1; 1987 c 291 s 167,243; 1987 c 312 art 1 s 26 subd 2; 1Sp2003 c 4 s 1*

469.167 DESIGNATION OF ENTERPRISE ZONES.

Subdivision 1. **Process.** The commissioner shall designate an area as an enterprise zone if (1) an application is made in the form and manner and containing the information as prescribed by the commissioner; (2) the application is made by the governing body of the area; (3) the area is determined by the commissioner to be eligible for designation under section 469.168; and (4) the zone is selected pursuant to the process provided by section 469.169.

Subd. 2. **Duration.** The designation of an area as an enterprise zone shall be effective for seven years after the date of designation, except that enterprise zones in border cities eligible to receive allocations for tax reductions under section 469.169, subdivisions 7 and 8, and under section 469.171, subdivision 6a or 6b, shall be effective until terminated by resolution adopted by the city in which the border city enterprise zone is located.

Subd. 3. **Limitation.** No area may be designated as an enterprise zone after December 31, 1986. No area may be designated as a border city zone after December 31, 1983.

History: *1987 c 291 s 168; 1Sp1989 c 1 art 17 s 14; 1991 c 291 art 21 s 14; 1996 c 471 art 7 s 5*

469.168 ELIGIBILITY REQUIREMENTS.

Subdivision 1. **Generally.** An area is eligible for designation if each of the requirements set forth in subdivisions 2 to 4 are met.

Subd. 2. **Boundaries; vacant land.** The boundary of the zone or each subdivision of the zone must be continuous and the area must include vacant or underutilized lands or buildings.

Subd. 3. **Acreage; market value.** The area of the zone must be less than 400 acres. The total market value of the taxable property contained in the zone at the time of application must be less than $100,000 per acre or $300,000 per acre for an area located wholly within a first class city. A zone which is located in a city of the third or fourth class may be divided into two to four separate subdivisions which need not be contiguous with each other. Each subdivision must contain not less than 100 acres. The restrictions provided by this paragraph shall not apply to areas designated pursuant to subdivision 4, paragraph (b) or (c).

Subd. 4. **Area characteristics.** The area must meet the requirements of paragraph (a), (b), or (c).

(a) The proposed zone is located within an economic hardship area, as established by meeting two or more of the following criteria:

(1) the percentage of residential housing units within the area which are substandard is 15 percent or greater under criteria prescribed by the commissioner using data collected by the Bureau of the Census or data submitted by the municipality and approved by the commissioner;

(2) the percentage of households within the area that fall below the poverty level, as determined by the United States Census Bureau, is 20 percent or greater;

(3) (i) the total market value of commercial and industrial property in the area has declined over three of the preceding five years, or (ii) the total market value of all property in the area has declined or has increased less than 10.5 percent over the preceding three-year period;

(4) for the last full year for which data is available, the per capita income in the area was 90 percent or less of the per capita income for the state, excluding standard metropolitan statistical areas, or for the standard metropolitan statistical area if the area is located in a standard metropolitan statistical area;

(5)(i) the current rate of unemployment in the area is at least 120 percent of the statewide average unemployment for the last 12-month period for which verifiable figures are available, or (ii) the total number of employment positions has declined by at least ten percent during the last 18 months.

For purposes of this paragraph, an economic hardship area must have a population under the most recent federal decennial census of at least (1) 4,000 if any of the area is located wholly or partly within a standard metropolitan statistical area, or (2) 2,500 for an area located outside of a standard metropolitan statistical area; except that (1) no minimum population is required in the case of an area located in an Indian reservation, and (2) in the case of two or more cities seeking designation of an enterprise zone under a joint exercise of power pursuant to section 471.59, the minimum population required by this provision shall not exceed the sum of the populations of those cities. A zone qualifying under this paragraph is referred to in sections 469.166 to 469.173 as a "hardship area zone."

(b) The area is so designated under federal legislation providing for federal tax benefits to investors, employers, or employees in enterprise zones. A zone qualifying under this paragraph is referred to in sections 469.166 to 469.173 as a "federally designated zone."

(c) The area consists of a statutory or home rule charter city with a contiguous border with a city in another state or with a contiguous border with a city in Minnesota which has a contiguous border with a city in another state and the area is determined by the commissioner to be economically or fiscally distressed. An area designated under this paragraph is referred to in sections 469.166 to 469.173 as a "border city zone."

History: *1987 c 291 s 169*

469.169 SELECTION OF ENTERPRISE ZONES.

Subdivision 1. **Submission of applications.** By August 31 of each year, a municipality seeking designation of an area as an enterprise zone shall submit an application to the commissioner. The commissioner shall establish procedures and forms for the submission of applications for enterprise zone designation.

Subd. 2. **Applications; contents.** The applications for designation as an enterprise zone shall contain, at a minimum:

(1) verification that the area is eligible for designation pursuant to section 469.168;

(2) a development plan, outlining the types of investment and development within the zone that the municipality expects to take place if the incentives and tax reductions specified under clauses (4) and (5) are provided, the specific investment or development reasonably expected to take place, any commitments obtained from businesses, the projected number of jobs that will be created, the anticipated wage level of those jobs, and any proposed targeting of the jobs created, including affirmative action plans if any. This clause does not apply to an application for designation as a border city zone;

(3) the municipality's proposed means of assessing the effectiveness of the development plan or other programs to be implemented within the zone once they have been implemented;

(4) the specific form of tax reductions, authorized by section 469.171, subdivision 1, proposed to be granted to businesses, the duration of the tax reductions, an estimate of the total state taxes likely to be forgone as a result, and a statement of the relationship between the proposed tax reductions and the type of investment or development sought or expected to be attracted to or maintained in the area if it is designated as a zone;

(5) the municipality's contribution to the zone as required by subdivision 5;

(6) any additional information required by the commissioner; and

(7) any additional information that the municipality considers relevant to the designation of the area as an enterprise zone.

Subd. 3. **Evaluation of applications.** The commissioner shall review and evaluate the applications submitted pursuant to subdivision 2 and shall determine whether each area is eligible for designation as an enterprise zone. In determining whether an area is eligible under section 469.168, subdivision 4, paragraph (a), if unemployment, employment, income, or other necessary data are not available for the area from the federal departments of labor or commerce or the state demographer, the commissioner may rely upon other data submitted by the municipality if the commissioner determines it is statistically reliable or accurate. The commissioner, together with the commissioner of revenue, shall prepare an estimate of the amount of state tax revenue which will be foregone for each application if the area is designated as a zone.

By October 1 of each year, the commissioner shall submit to the Legislative Advisory Commission a list of the areas eligible for designation as enterprise zones, along with recommendations for designation and supporting documentation. In making recommendations for designation, the commissioner shall consider and evaluate the applications pursuant to the following criteria:

(1) the pervasiveness of poverty, unemployment, and general distress in the area;

(2) the extent of chronic abandonment, deterioration, or reduction in value of commercial, industrial, or residential structures in the area and the extent of property tax arrearages in the area;

(3) the prospects for new investment and economic development in the area with the tax reductions proposed in the application relative to the state and local tax revenue which would be foregone;

(4) the competing needs of other areas of the state;

(5) the municipality's proposed use of other state and federal development funds or programs to increase the probability of new investment and development occurring;

(6) the extent to which the projected development in the zone will provide employment to residents of the economic hardship area, and particularly individuals who are unemployed or

who are economically disadvantaged as defined in the federal Job Training Partnership Act of 1982, Volume 96, Statutes at Large, page 1322;

(7) the funds available pursuant to subdivision 7; and

(8) other relevant factors that the commissioner specifies in the commissioner's recommendations.

The commissioner shall submit a separate list of the areas entitled to designation as federally designated zones and border city zones along with recommendations for the amount of funds to be allocated to each area.

Subd. 4. **LAC recommendations.** By October 15, the Legislative Advisory Commission shall submit to the commissioner its advisory recommendations regarding the designation of enterprise zones. By October 30 of each year the commissioner shall make the final designation of the areas as enterprise zones, pursuant to section 469.167, subdivision 1. In making the designation, the commissioner may make modifications in the design of or limitations on the tax reductions contained in the application necessary because of the funding limitations under subdivision 7.

Subd. 5. **Local contribution.** No area may be designated as an enterprise zone unless the municipality agrees to make a qualifying local contribution in the form of a property tax reduction for employment property as provided by section 469.170 for any business qualifying for a state tax reduction pursuant to this section. A qualifying local contribution may in the alternative be a local contribution or investment out of other municipal funds, but excluding any special federal grants or loans, equivalent to the property tax reduction. In concluding the agreement with the municipality the commissioner may require that the local contribution will be made in a specified ratio to the amount of the state credits authorized. If the local contribution is to be used to fund additional reductions in state taxes, the commissioner and the governing body of the municipality shall enter an agreement for timely payment to the state to reimburse the state for the amount of tax revenue foregone as a result. The qualifying local contribution for development within the portion of an enterprise zone that is located in a town that has been added by boundary amendment to an enterprise zone that is located within five municipalities and was designated in 1984 shall be provided by the town.

Subd. 6. **Limitations; number of designations.** (a) In each of the years 1983 and 1984, the commissioner shall designate at least two but not more than five areas as enterprise zones. No designations shall be made after December 31, 1984.

(b) No more than one area may be designated as an enterprise zone in any county, except that two areas may be designated in a county containing a city of the first class.

(c) No more than two areas in a congressional district may be designated as an enterprise zone in 1984.

This subdivision shall not apply to federally designated zones or border city zones.

Subd. 7. **Funding limitations.** The maximum amount of the tax reductions which may be authorized pursuant to designations of enterprise zones is $36,400,000. The maximum amount of this total that may be authorized by the commissioner for tax reductions pursuant to section 469.171, subdivision 1, that will reduce tax revenues which otherwise would have been received during fiscal years 1984 and 1985 is $9,000,000. Of the total limitation and the 1984-1985 biennial limitation the commissioner shall allocate to border city zones an amount equal to $16,610,940 and $5,000,000 respectively. These funds shall be allocated among such zones on a per capita basis except that the maximum allocation to any one city is $6,610,940 and no city's allocation shall exceed $210 on a per capita basis. An amount sufficient to fund the state-funded property tax credits, the refundable income tax credits, and the sales tax exemption, as authorized pursuant to this section is appropriated to the commissioner of revenue. Upon designation of an enterprise zone the commissioner shall certify the total amount available for tax reductions in the zone for its duration. The amount certified shall reduce the amount available for tax reductions in other enterprise zones. If subsequent estimates indicate or actual experience shows that the approved tax reductions will result in amounts of tax reductions in excess of the amount certified for the zone, the commissioner shall implement a plan to reduce the available tax reductions in the zone to an amount within the sum certified for the zone. If subsequent estimates indicate or actual experience shows that the approved tax reductions will result in amounts of tax reductions below the amount certified, the difference shall be available for certification in other zones or used in connection with an amended plan of tax reductions for the zone as the commissioner determines appropriate. If the tax reductions authorized result in reduced revenues for a dedicated fund, the commissioner of finance shall transfer equivalent amounts to the dedicated fund from the general fund as necessary. Of the $36,400,000 in tax reductions authorized under this subdivision, an additional $800,000 in tax reductions may be authorized within an enterprise zone located within five municipalities that was designated by the commissioner in 1984.

Subd. 8. **Additional enterprise zone allocations.** (a) In addition to tax reductions authorized in subdivision 7, the commissioner may allocate $600,000 for tax reductions pursuant to section 469.171, subdivisions 1 to 8, to hardship area zones or border city zones. Of this amount, a minimum of $200,000 must be allocated to an area added to an enterprise zone pursuant to Laws 1986, chapter 465, article 2, section 3. Allocations made pursuant to this subdivision may not be used to reduce a tax liability, or increase a tax refund, prior to July 1, 1987. Limits on the maximum allocation to a zone imposed by subdivision 7 do not apply to allocations made under this subdivision.

(b) A city encompassing an enterprise zone, or portion of an enterprise zone, qualifies for an additional allocation under this subdivision if the following requirements are met:

(1) the city encompassing an enterprise zone, or portion of an enterprise zone, has signed contracts with qualifying businesses that commit the city's total initial allocation received pursuant to subdivision 7; and

(2) the city encompassing an enterprise zone, or portion of an enterprise zone, submits an application to the commissioner requesting an additional allocation for tax reductions authorized by section 469.171, subdivisions 1 to 8. The application must identify a specific business expansion project which would not take place but for the availability of enterprise zone tax incentives.

(c) The commissioner shall use the following criteria when determining which qualifying cities shall receive an additional allocation under this subdivision and the amount of the additional allocation the city is to receive:

(1) additional allocations to qualifying cities under this subdivision shall be made within 60 days of receipt of an application;

(2) applications from cities with the highest level of economic distress, as determined using criteria listed in section 469.168, subdivision 4, paragraph (a), clauses (1) to (5), shall receive priority for an additional allocation under this subdivision;

(3) if the commissioner determines that two cities submitting applications within one week of each other have equal levels of economic distress, the application from the city with the business prospect which will have the greatest positive economic impact shall receive priority for an additional allocation. Criteria used by the commissioner to determine the potential economic impact a business would have shall include the number of jobs created and retained, the amount of private investment which will be made by the business, and the extent to which the business would help alleviate the economic distress in the immediate community; and

(4) the commissioner shall determine the amount of any additional allocation a city may receive. The commissioner shall base the amount of additional allocations on the commissioner's determination of the amount of tax incentives which are necessary to ensure the business prospect will expand in the city. No single allocation under this subdivision may exceed $100,000. No city may receive more than $250,000 under this subdivision.

Subd. 9. **Additional border city allocations.** In addition to tax reductions authorized in subdivisions 7 and 8, the commissioner may allocate $1,100,000 for tax reductions to border city enterprise zones in cities located on the western border of the state, and $300,000 to the border city enterprise zone in the city of Duluth. The commissioner shall make allocations to zones in cities on the western border by evaluating which cities' applications for allocations relate to

business prospects that have the greatest positive economic impact. 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 section 469.169, subdivision 7, do not apply to this allocation.

Subd. 10. **Additional border city allocations.** In addition to tax reductions authorized in subdivisions 7, 8, and 9, 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 section 469.169, subdivision 7, do not apply to this allocation.

Subd. 11. **Additional border city allocations.** In addition to tax reductions authorized in subdivisions 7 to 10, 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 section 469.169, subdivision 7, do not apply to this allocation.

Subd. 12. **Additional zone allocations.** (a) In addition to tax reductions authorized in subdivisions 7 to 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.

Subd. 13. **Additional enterprise zone allocations.** In addition to tax reductions authorized in subdivisions 7 to 11, the commissioner may allocate $500,000 for tax reductions pursuant to enterprise zone designations, as designated in Laws 1997, chapter 231, article 16, section 26. 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 enterprise zone. Limitations on allocations under subdivision 7 do not apply to this allocation.

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.

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.

Subd. 16. **Additional border city allocations.** (a) In addition to tax reductions authorized in subdivisions 7 to 15, the commissioner shall allocate $750,000 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 paragraph may alternatively be used for tax reductions under section 469.1732 or 469.1734.

(b) The commissioner shall allocate $750,000 for tax reductions under section 469.1732 or 469.1734 to cities with border city enterprise zones located on the western border of the state. The commissioner shall allocate this amount among the cities on a per capita basis. Any portion of the allocation provided in this paragraph may alternatively be used for tax reductions as provided in section 469.171.

Subd. 17. **Additional border city allocations.** (a) In addition to tax reductions authorized in subdivisions 7 to 16, the commissioner shall allocate $750,000 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 paragraph may alternatively be used for tax reductions under section 469.1732 or 469.1734.

(b) The commissioner shall allocate $750,000 for tax reductions under section 469.1732 or 469.1734 to cities with border city enterprise zones located on the western border of the state.

The commissioner shall allocate this amount among the cities on a per capita basis. Any portion of the allocation provided in this paragraph may alternatively be used for tax reductions as provided in section 469.171.

Subd. 18. **Additional border city allocations; 2008.** (a) In addition to tax reductions authorized in subdivisions 7 to 17, the commissioner shall allocate $352,500 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. The city alternatively may elect to use any portion of the allocation provided in this paragraph for tax reductions under section 469.1732 or 469.1734.

(b) The commissioner shall allocate $352,500 for tax reductions under section 469.1732 or 469.1734 to cities with border city enterprise zones located on the western border of the state. The commissioner shall allocate this amount among the cities on a per capita basis. The city alternatively may elect to use any portion of the allocation provided in this paragraph for tax reductions as provided in section 469.171.

History: *1987 c 291 s 170; 1993 c 375 art 17 s 18; 1995 c 264 art 5 s 10,11; 1996 c 471 art 7 s 6,7; 1997 c 231 art 16 s 20; 1998 c 389 art 12 s 2,3; art 16 s 23; 1999 c 243 art 16 s 26,27; 1Sp2001 c 5 art 15 s 2; 1Sp2003 c 21 art 10 s 1; 1Sp2005 c 3 art 7 s 11; 2008 c 154 art 9 s 1*

469.170 TAX CLASSIFICATION OF EMPLOYMENT PROPERTY.

Subdivision 1. **Municipal applications.** The governing body of any municipality that contains an enterprise zone designated under section 469.167 shall by resolution establish a program for classification of new property or improvements to existing property as employment property pursuant to the provisions of this section. Applications for classification under the program shall be filed with the municipal clerk or auditor in a form prescribed by the commissioner of revenue, with additions as prescribed by the governing body. The application shall contain, where appropriate, a legal description of the parcel of land on which the facility is to be situated or improved; a general description of the facility or improvement and its proposed use; the probable time schedule for undertaking any construction or improvement; and information regarding the findings required in subdivision 4; the market value and the net tax capacity of the land and of all other taxable property then situated on it, according to the most recent assessment; and, if the property is to be improved or expanded, an estimate of the probable cost of the new construction or improvement and the market value of the new or improved facility (excluding land) when completed.

Subd. 2. **Hearing.** Upon receipt of an application the municipal clerk or auditor, subject to any prior approval required by the resolution establishing the program, shall furnish a copy to the assessor for the property and to the governing body of each school district and other public body authorized to levy taxes on the property. The municipal clerk or auditor shall publish a notice in the official newspaper of the time and place of a hearing to be held by the governing body on the application, not less than 30 days after the notice is published. The notice shall state that the applicant, the assessor, representatives of the affected taxing authorities, and any taxpayer of the municipality may be heard or may present their views in writing at or before the hearing. The hearing may be adjourned from time to time, but the governing body shall take action on the application by resolution within 30 days after the hearing ends. If disapproved, the reasons shall be set forth in the resolution. The applicant may appeal to the commissioner of revenue within 30 days thereafter, but only on the ground that the determination is arbitrary, in relation to prior determinations as to classification under the program, or based upon a mistake of law. If approved, the resolution shall include determinations as to the findings required in subdivision 4, and the clerk or auditor shall transmit it to the commissioner.

Subd. 3. **Commissioner's action.** Within 60 days after receipt of an approved application or an appeal from the disapproval of an application, the commissioner of revenue shall take action on it. The commissioner of revenue shall approve each application approved by the governing body on finding that it complies with the provisions of this section. On disapproving the application, or finding that grounds exist for appeal of a disapproved application, the commissioner shall transmit the finding to the governing body and the applicant. When grounds for appeal have been determined to exist, the governing body shall reconsider and take further action on the application within 30 days after receipt of the commissioner's notice and serve written notice of the action upon the applicant. The applicant, within 30 days after receipt of notice of final disapproval by the commissioner of revenue or the governing body, may appeal from the disapproval to a court of competent jurisdiction.

Subd. 4. **Hardship area zone criteria.** In the case of hardship area zones, an application shall not be approved unless the governing body finds that the construction or improvement of the facility:

(1) is reasonably likely to create new employment or prevent a loss of employment in the municipality;

(2) is not likely to have the effect of transferring existing employment from one or more other municipalities within the state;

(3) is not likely to cause the total market value of employment property within the municipality to exceed five percent of the total market value of all taxable property within the municipality; or, if it will, considering the amount of additional municipal services likely to be

required for the employment property, is not likely to substantially impede the operation or the financial integrity of the municipality or any other public body levying taxes on property in the municipality; and

(4) will not result in the reduction of the net tax capacity of existing property within the municipality owned by the applicant, through abandonment, demolition, or otherwise, without provision for the restoration of the existing property within a reasonable time in a manner sufficient to restore the net tax capacity.

Subd. 5. **Border city zone criteria.** In the case of border city zones, an application for assessment as employment property under section 273.13, subdivision 24, paragraph (b), or for a tax reduction pursuant to section 469.171, subdivision 1, may not be approved unless the governing body finds that the construction or improvement of the facility is not likely to have the effect of transferring existing employment from one or more other municipalities within the state.

Subd. 5a. **Plans: businesses with no previous credits.** All participating enterprise zone municipalities must submit, with each application from businesses that previously have not received enterprise zone credits, a written multiyear enterprise zone tax credit distribution plan. The plan must set forth: (1) the maximum amount of credits to be drawn over the five year allowable period; and (2) the maximum amount of state tax credits to be drawn each of those five years, and whether the form will be in tax credits or refunds.

Subd. 5b. **Plans: previously approved businesses.** Within 90 days of final enactment of this act, all participating enterprise zone municipalities, except those containing an enterprise zone designated under section 469.168, subdivision 4, paragraph (c), other than a zone in the city of the first class, must submit a written multiyear enterprise zone tax credit distribution plan. The plan must specify the maximum amounts of state tax credits previously approved business applicants are eligible to receive in each of the remaining years for which credits have been authorized. The commissioner may only approve requests for state tax credits from a business that meets the requirements established in sections 469.166 to 469.173. The commissioner shall not approve any request for state tax credits from a business that exceeds the amount set forth in an enterprise zone municipality's multiyear enterprise zone tax credit distribution plan for that business entity for that year.

Subd. 5c. **Border city credit plans.** Border city enterprise zones designated under section 469.168, subdivision 4, paragraph (c), that are not located in cities of the first class shall, within 90 days of final enactment of this act, submit a written multiyear enterprise zone tax distribution plan. The plan must specify the maximum aggregate amount of tax credits all previously approved business applicants are eligible to receive in each of the remaining years for which credits have been authorized. The commissioner may only approve requests for state tax credits for a business that meets the requirements established in sections 469.166 to 469.173.

Subd. 5d. **Amendment of plans.** A written multiyear enterprise zone tax credit distribution plan submitted under subdivision 5a, 5b, or 5c, may be amended, provided that an initial amendment may be made no sooner than two years from the date of submission of the original plan, and subsequent amendments may be made no sooner than two years after the most recent prior amendment.

Subd. 5e. **Limits on multiyear plans.** The requirements for a multiyear enterprise zone tax credit distribution plan under subdivisions 5a to 5d apply only for:

(1) each business that will receive more than $25,000 in credits in a year; or

(2) tax reductions under section 469.171, subdivision 1, for businesses in areas designated under section 469.171, subdivision 5.

Subd. 6. **Classification.** Property shall be classified as employment property and assessed as provided for class 3b property in section 273.13, subdivision 24, paragraph (b), for taxes levied in the year in which the classification is approved and for the four succeeding years after the approval. If the classification is revoked, the revocation is effective for taxes levied in the next year after revocation.

Subd. 7. **Revocation.** The governing body may request the commissioner of revenue to approve the revocation of a classification pursuant to this section if it finds by resolution that:

(1) the construction or improvement of the facility has not been completed within two years after the approval of the classification, or any longer period that may have been allowed in the approving resolution or may be necessary due to circumstances not reasonably within the control of the applicant; or

(2) the applicant has not proceeded in good faith with the construction or improvement of the facility, or with its operation, in a manner which is consistent with the purpose of this section and is possible under circumstances reasonably within the control of the applicant.

The findings may be made only after a hearing held upon notice mailed to the applicant by certified mail at least 60 days before the hearing.

Subd. 8. **Hearing.** Upon receipt of the request for revocation, the commissioner of revenue shall notify the applicant and the governing body of a time and place at which the applicant may be heard. The hearing must be held within 30 days after receipt of the request. Within 30 days after the hearing, the commissioner of revenue shall determine whether the facts and circumstances are grounds for revocation as recommended by the governing body. If the commissioner of revenue revokes the classification, the applicant may appeal from the order to a court of competent jurisdiction at any time within 30 days after revocation.

Subd. 9. [Repealed, 1995 c 186 s 81]

History: *1987 c 268 art 6 s 24; art 10 s 2; 1987 c 291 s 171,243; 1988 c 719 art 5 s 84; art 19 s 23; 1989 c 329 art 13 s 20; 1998 c 389 art 12 s 4*

469.171 STATE TAX REDUCTIONS.

Subdivision 1. **Authorized types.** The following types of tax reductions may be approved by the commissioner for businesses located in an enterprise zone:

(1) an exemption from the general sales tax imposed by chapter 297A for purchases of construction materials or equipment for use in the zone if the purchase was made after the date of application for the zone;

(2) a credit against the income tax of an employer for additional workers employed in the zone, other than workers employed in construction, up to a maximum of $3,000 per employee per year;

(3) an income tax credit for a percentage of the cost of debt financing to construct new or expanded facilities in the zone; and

(4) a state paid property tax credit for a portion of the property taxes paid by a new commercial or industrial facility or the additional property taxes paid by an expansion of an existing commercial or industrial facility in the zone.

Subd. 2. **Municipality to specify.** The municipality shall specify in its application for designation the types of tax reductions it seeks to be made available in the zone and the percentage rates and other appropriate limitations on the reductions.

Subd. 3. **Commissioner of revenue action.** Upon designation of an enterprise zone and approval by the commissioner of the tax reductions to be made available therein, the commissioner of revenue shall implement the tax reductions.

Subd. 4. **Restriction.** The tax reductions provided by this section shall not apply to (1) a facility the primary purpose of which is one of the following: retail food and beverage services, automobile sales or service, or the provision of recreation or entertainment, or a private or commercial golf course, country club, massage parlor, tennis club, skating facility including roller skating, skateboard, and ice skating, racquet sports facility, including any handball or racquetball court, hot tub facility, suntan facility, or racetrack; (2) property of a public utility; (3) property used in the operation of a financial institution; (4) property owned by a fraternal or veterans' organization; or (5) property of a business operating under a franchise agreement that requires the business to be located in the state; except that, in an enterprise zone designated under section 469.168, subdivision 4, paragraph (c), that is not in a city of the first class, tax reductions may be provided to a retail food or beverage facility or an automobile sales or service facility, or a business operating under a franchise agreement that requires the business to be located in this

state except for such a franchised retail food or beverage facility.

Subd. 5. **Border city areas.** The commissioner shall approve tax reductions authorized by subdivision 1 within a border city zone only after the governing body of a city designated as an enterprise zone has designated an area or areas, each consisting of at least 100 acres, of the city not in excess of 400 acres in which the tax reductions may be provided.

Subd. 6. **Additional border city tax reductions.** In addition to the tax reductions authorized by subdivision 1, for a border city zone, the following types of tax reductions may be approved:

(1) a credit against income tax for workers employed in the zone and not qualifying for a credit under subdivision 1, clause (2), subject to a maximum of $1,500 per employee per year;

(2) a state paid property tax credit for a portion of the property taxes paid by a commercial or industrial facility located in the zone.

Subd. 6a. **Additional border city allocations.** In addition to tax reductions authorized in section 469.169, subdivisions 7 and 8, the commissioner may allocate $2,000,000 for tax reductions pursuant to subdivision 9 to enterprise zones designated under section 469.168, subdivision 4, paragraph (c), except for zones located in cities of the first class. This money shall be allocated among the zones on a per capita basis. Limits on the maximum allocation to a zone imposed by section 469.169, subdivision 7, do not apply to allocations made under this subdivision. Tax reductions authorized by this subdivision may not be allocated to any property which is:

(1) a facility the primary purpose of which is one of the following: the provision of recreation or entertainment, or a private or commercial golf course, country club, massage parlor, tennis club, skating facility including roller skating, skateboard, and ice skating, racquet sports facility, including any handball or racquetball court, hot tub facility, suntan facility, or racetrack;

(2) property of a public utility;

(3) property used in the operation of a financial institution;

(4) property owned by a fraternal or veterans' organization;

(5) property of a retail food or beverage service business operating under a franchise agreement that requires the business to be located in the state.

Subd. 6b. **Additional border city allocations.** In addition to tax reduction authorized under section 469.169, subdivisions 7 and 8, and under subdivision 6a, the commissioner may allocate $1,000,000 for tax reductions as provided in this section to enterprise zones designated under section 469.168, subdivision 4, paragraph (c), except for zones located in cities of the first class. The money shall be allocated among the zones on a per capita basis. Limits on the maximum allocation to a zone imposed by section 469.169, subdivision 7, do not apply to allocations made

under this subdivision.

Subd. 7. **Duration.** Each tax reduction provided to a business pursuant to this subdivision shall terminate not longer than five years after the effective date of the tax reduction for the business unless the business is located in a border city enterprise zone designated under section 469.168, subdivision 4, paragraph (c), that is not a city of the first class. Each tax reduction provided to a business that is located in a border city enterprise zone designated under section 469.168, subdivision 4, paragraph (c), that is not located in a city of the first class, may be provided until the allocations provided under subdivision 6a, and under section 469.169, subdivisions 7 and 8, have been expended. Subject to the limitation in this subdivision, the tax reductions may be provided after expiration of the zone's designation.

Subd. 7a. **Property tax credit; appropriation.** There is annually appropriated from the general fund to the commissioner of revenue the amounts required to reimburse taxing jurisdictions for the revenue lost due to the property tax credit provided in subdivision 1, clause (4). Payment shall be made to taxing jurisdictions in the same proportion that the ad valorem tax is distributed. Payment shall be made to taxing jurisdictions, other than school districts, at the time provided in section 473H.10, subdivision 3.

Subd. 8. **Refundable credits.** The income tax credits provided pursuant to subdivisions 1 and 6 may be refundable.

Subd. 9. **Recapture.** Any business that (1) receives tax reductions authorized by subdivisions 1 to 8, classification as employment property pursuant to section 469.170, or an alternative local contribution under section 469.169, subdivision 5; and (2) ceases to operate its facility located within the enterprise zone shall repay the amount of the tax reduction or local contribution received during the two years immediately before it ceased to operate in the zone.

The repayment must be paid to the state to the extent it represents a tax reduction under subdivisions 1 to 8 and to the municipality to the extent it represents a property tax reduction or other local contribution. Any amount repaid to the state must be credited to the amount certified as available for tax reductions in the zone pursuant to section 469.169, subdivision 7. Any amount repaid to the municipality must be used by the municipality for economic development purposes. The commissioner of revenue may seek repayment of tax credits from a business ceasing to operate within an enterprise zone by utilizing any remedies available for the collection of tax.

Subd. 10. **Interest.** When tax credits allowed under subdivisions 1 to 8 result in an overpayment within the meaning of section 289A.50, the excess to be refunded to the taxpayer shall bear interest at the amount specified in section 270C.405, computed from 90 days after (1) the due date of the return or (2) the date on which the return is filed, whichever is later, to the date the refund is paid.

Subd. 11. **Limitations; last eight months of duration.** This subdivision applies only to state tax reductions first authorized by the municipality to be provided to a business within eight months of the expiration of the enterprise zone's designation.

Before agreeing with a business to provide tax reductions, the municipality must submit the proposed tax reductions to the commissioner for approval. The commissioner shall review and analyze the proposal in light of, at least: (1) the proposed investment that the business will make in the zone, (2) the number and quality of new jobs that will be created in the zone, (3) the overall positive impact on economic activity in the zone, and (4) the extent to which the impacts in clauses (1) to (3) are dependent upon providing the state tax reductions to the business. The commissioner shall disapprove the proposal if the commissioner determines the public benefits of increased investment and employment resulting from the tax reductions is disproportionately small relative to the cost of the state tax reductions. If the commissioner disapproves of the proposal, the tax reductions are not allowed to the business.

If the municipality submits the proposal to the commissioner before expiration of the zone designation, the authority to grant the tax reductions continues until the commissioner acts on the proposal.

History: *1987 c 268 art 10 s 3-6; 1987 c 291 s 172,243; 1Sp1989 c 1 art 9 s 64; art 17 s 15; 1990 c 480 art 1 s 46; 1990 c 604 art 3 s 41; art 10 s 19; 1991 c 291 art 21 s 15; 1998 c 389 art 12 s 5; 2005 c 151 art 2 s 17*

469.172 DEVELOPMENT AND REDEVELOPMENT POWERS.

Notwithstanding any contrary provision of law or charter, any city of the first or second class that contains an enterprise zone or that has been designated as an enterprise zone may, in addition to its other powers, exercise the powers granted to a governmental subdivision by sections 469.001 to 469.047, 469.048 to 469.068, and 469.109 to 469.113. Section 469.059, subdivision 15, shall apply to the city in the exercise of the powers granted pursuant to this section. It may exercise the powers assigned to redevelopment agencies pursuant to sections 469.152 to 469.165, without limitation to further the purposes of sections 469.001 to 469.047, 469.048 to 469.068, and 469.109 to 469.134. It may exercise the powers set forth in sections 469.001 to 469.047, 469.048 to 469.068, and 469.109 to 469.164 without limitation to further the purposes and policies set forth in sections 469.152 to 469.165. It may exercise the powers granted by this subdivision and any other development or redevelopment powers authorized by other laws, including sections 469.124 to 469.134 and 469.152 to 469.165, independently or in conjunction with each other as though all the powers had been granted to a single entity. Any project undertaken to accomplish the purposes of sections 469.001 to 469.047 that qualifies as single-family housing under section 462C.02, subdivision 4, shall be subject to the provisions of chapter 462C.

Upon expiration of the designation of the enterprise zone, the powers granted by this subdivision may be exercised only with respect to any project, program, or activity commenced or established prior to that date. The powers granted by this subdivision may only be exercised within the zone.

History: *1987 c 291 s 173*

469.173 ADMINISTRATION.

Subdivision 1. **Technical assistance.** The commissioner shall provide technical assistance to small municipalities seeking designation of an area as an enterprise zone. For purposes of this subdivision, a small municipality means a municipality with a population of 20,000 or less.

Subd. 2. [Repealed, 1997 c 187 art 3 s 34]

Subd. 3. **Federal designations.** The commissioner may accept applications for and may at any time grant a contingent designation of area as an enterprise zone for purposes of seeking a designation of the area as a federally designated zone. For purposes of the designations, the commissioner may waive any of the requirements or limitations on designations contained in this section. If the contingent designation would require funding in excess of the amount available pursuant to section 469.169, subdivision 7, the commissioner shall inform the members of the legislative advisory commission and shall submit a request for the necessary funding to the tax and appropriations committees of the legislature.

Subd. 4. **Reporting.** The commissioner shall require municipalities receiving enterprise zone designations to report to the state regarding the economic activity that has occurred in the zone following the designation. This information shall include the number of jobs created in the zone, the number of economically disadvantaged individuals hired in the zone, the average wage level of the jobs created, and descriptions of any affirmative action programs undertaken by the municipality in connection with the zone. The amount of the municipality's local contribution and the number of businesses qualifying for or directly benefiting from the local contribution must be reported annually to the commissioner.

Subd. 5. **Information sharing.** Pursuant to section 270B.14, subdivision 3, the commissioner of revenue may share information with the commissioner or with a municipality receiving an enterprise zone designation, insofar as necessary to administer the funding limitations provided by section 469.169, subdivision 7.

Subd. 6. **Zone boundary realignment.** The commissioner may approve specific applications by a municipality to amend the boundaries of a zone or of an area or areas designated pursuant to section 469.171, subdivision 5, at any time. Boundaries of a zone may not be amended to create noncontiguous subdivisions. If the commissioner approves the amended boundaries, the

change is effective on the date of approval. Notwithstanding the area limitation under section 469.168, subdivision 3, the commissioner may approve a specific application to amend the boundaries of an enterprise zone which is located within five municipalities and was designated in 1984, to increase its area to not more than 800 acres, and may approve an additional specific application to amend the boundaries of that enterprise zone to include a sixth municipality or to further increase its area to include all or part of the territory of a town that surrounds one of the five municipalities, or both.

Notwithstanding the area limitation under section 469.168, subdivision 3, the commissioner may approve a specific application to amend the boundaries of an enterprise zone that is located within four municipalities to include a fifth municipality. The addition of the fifth municipality may only be approved after the existing municipalities, by adoption of a resolution by each municipality's governing board, agree to the addition of the fifth municipality.

Subd. 7. **Application.** Sections 469.169, 469.171, 469.172, and this section remain in effect only for border city enterprise zones and only until the enterprise zone is terminated by resolution adopted by the city in which the border city enterprise zone is located. For all other enterprise zones, sections 469.169, 469.171, 469.172, and this section are no longer in effect after December 31, 1996.

History: *1987 c 291 s 174,243; 1987 c 404 s 159; 1989 c 184 art 2 s 29; 1996 c 471 art 7 s 8; 1997 c 7 art 1 s 146*

469.1731 BORDER CITY DEVELOPMENT ZONES.

Subdivision 1. **Designation.** To encourage economic development, to revitalize the designated areas, to expand tax base and economic activity, and to provide job creation, growth, and retention, the following border cities may designate, by resolution, areas of the city as development zones after a public hearing upon 30-day notice.

(a) The city of Breckenridge may designate all or any part of the city as a zone.

(b) The city of Dilworth may designate between one and six areas of the city as zones containing not more than 100 acres in the aggregate.

(c) The city of East Grand Forks may designate all or any part of the city as a zone.

(d) The city of Moorhead may designate between one and six areas of the city as zones containing not more than 100 acres in the aggregate.

(e) The city of Ortonville may designate between one and six areas of the city as zones containing not more than 100 acres in the aggregate.

Subd. 2. **Development plan.** (a) Before designating a development zone, the city must adopt a written development plan that addresses:

(1) evidence of adverse economic conditions within the area resulting from competition with the bordering state or the 1997 floods or both;

(2) the viability of the development plan;

(3) public and private commitment to and other resources available for the area;

(4) how designation would relate to a development and revitalization plan for the city as a whole; and

(5) how the local regulatory burden will be eased for businesses operating in the area.

(b) The development plan must include:

(1) a map of the proposed zone that indicates the geographic boundaries, the total area, and the present use and conditions generally of land and structures within the area;

(2) evidence of community support and commitment from business interests;

(3) a description of the methods proposed to increase economic opportunity and expansion, facilitate infrastructure improvement, and identify job opportunities; and

(4) the duration of the zone designation, not to exceed 15 years.

Subd. 3. **Filing.** The city must file a copy of the resolution and development plan with the commissioner of employment and economic development. The designation takes effect 30 days after the filing.

History: *1998 c 389 art 12 s 6; 2003 c 127 art 14 s 12; 1Sp2003 c 4 s 1*

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]

Subd. 3. **Phaseout at end of zone duration.** During the last three years of the duration of a border city development zone, the available exemptions, subtractions, or credits are reduced by the following percentages for the taxes payable year or the taxable years that begin during:

(1) the calendar year that is two years before the final year of designation as a development zone, 25 percent;

(2) the calendar year that is immediately before the final year of designation as a development zone, 50 percent; and

(3) for the final calendar year of designation as a development zone, 75 percent.

History: *1998 c 389 art 12 s 7; 1Sp1998 c 3 s 4; 1Sp2001 c 5 art 9 s 28*

469.1733 DISQUALIFIED TAXPAYERS.

Subdivision 1. **Delinquent taxpayers.** An individual or a business is not eligible for the exemptions or credits available under section 272.0212, 469.1732, or 469.1734, if the individual or business owes delinquent amounts under chapter 290, 296A, 297A, 297B, 297F, or 297G or if the individual or business owns property located in the city or county in which the zone is located on which the property taxes are delinquent. Delinquency is determined as of the date of the application for a certificate under section 469.1735, subdivision 1. As a condition of receiving a certificate, the individual or business must authorize the Department of Revenue to disclose information necessary to make the determination under this subdivision notwithstanding any provision of chapter 270B or other law to the contrary.

Subd. 2. **Relocation within county.** If a business located in the county in which the border city development zone is located relocates from outside a zone into a zone, the business is not eligible for the exemptions or credits available in the border city development zone, unless the governing body of the city, for a business located in an incorporated area, or the county, for a business located outside of an incorporated area, approves the relocation of the business.

Subd. 3. **Relocation from outside county.** (a) If a business relocates more than 25 full-time equivalent jobs from a location in Minnesota outside of the county in which the zone is located, the business must notify the commissioner of employment and economic development and the city and county governments from which the jobs are being relocated. A business may satisfy the notification requirement by notifying the commissioner of employment and economic development, the city, and county of its intent to transfer jobs to a zone before actually doing so. The business is not eligible for the exemptions and credits available in the border city development zone, if the governing body of the city or county from which the jobs are being relocated adopts a resolution objecting to the relocation within 60 days after its receipt of the notice.

(b) The business becomes eligible for the exemptions and credits available in the zone when each city and county that objected to the relocation rescinds its objection by resolution.

(c) A city or county that objects to the relocation of jobs must file a copy of the resolution with the commissioner of employment and economic development and the city that created the border city development zone into which the jobs were or intend to be transferred.

History: *1998 c 389 art 12 s 8; 2000 c 260 s 65; 1Sp2003 c 4 s 1*

469.1734 TAX INCENTIVES OUTSIDE ZONES.

Subdivision 1. **Authority.** A city with authority to establish a border city development zone under section 469.1731 may grant the tax incentives provided by this section. This authority applies only to projects located outside of a zone, except as provided in subdivision 6.

Subd. 2. **Definitions.** For purposes of this section, "qualifying business" means the business conducted by a corporation, partnership, or individual doing business from a fixed location within the border city but located outside of the border city development zone.

Subd. 3. **Property tax.** (a) A city may grant a partial or complete exemption from property taxation of all buildings, structures, fixtures, and improvements used in or necessary to a qualifying business for a period not exceeding five taxes payable years. A partial exemption must be stated as a percentage of the total ad valorem taxes assessed against the property.

(b) In addition to, or in lieu of, a property tax exemption under paragraph (a), a city may establish an amount due as payments in lieu of ad valorem taxes on buildings, structures, fixtures, and improvements used by the qualifying business. The city council shall designate the amount of the payments for each year and the beginning year and the concluding year for payments in lieu of taxes. The option to make payments in lieu of taxes under this section is limited to 20 consecutive taxes payable years for any qualifying business. To establish the amount of payments in lieu of taxes, the city council may use actual or estimated levels of assessment and taxation or may designate different amounts of payments in lieu of other taxes in different years to recognize future expansion plans of a qualifying business or other considerations. The payments in lieu shall be collected and distributed in the same manner as ad valorem taxes.

(c) The city council must determine whether granting the exemption or payments in lieu of taxes, or both, is necessary to enable a business to expand in the city or to attract a business to the city and is in the best interest of the city. If it so determines, the city must give its approval.

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

Subd. 5. **Border city new industry credit.** (a) To provide a tax incentive for new industry in border cities, a corporation may be allowed a credit against the tax imposed by section 290.02. The commissioner shall prescribe the method in which the credit may be claimed. This may include allowing the credit only as a separately processed claim for refund.

(b) The credit equals one percent of the wages and salaries paid by the taxpayer during the taxable year for employees whose principal place of work is located in a border city but outside of a zone designated under section 469.1731. The credit applies for the first three taxable years of the operation of the corporation in the border city. In the fourth and fifth taxable years of the operation of the corporation in the border city, the credit equals 0.5 percent of the wages and salaries. After the fifth year, no credit is allowed. The city shall determine the amount of wages that qualify for the credit and issue tax credit certificates in the correct amount.

(c) The credit under this subdivision applies only to a corporate enterprise engaged in assembling, fabricating, manufacturing, mixing, or processing of any agricultural, mineral, or manufactured product or combinations of them.

(d) The credit allowed under this subdivision may not exceed the lesser of:

(1) the tax liability of the taxpayer for the taxable year; or

(2) the amount of the tax credit certificates received by the taxpayer from the city, less any tax credit certificates used under subdivisions 4 and 6, and section 469.1732, subdivision 2.

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:

(1) 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; or

(2) housing that 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.

(e) The amount to be refunded shall bear interest at the rate in section 270C.405 from 90 days after the refund claim is filed with the commissioner.

Subd. 7. **Notice to competitors.** (a) Before an exemption or other concession is granted under subdivision 3 or 4, the procedure under this subdivision applies.

(b) Unless the city council determines that no existing business within the city would be a potential competitor of the project, the project operator shall publish two notices to competitors of the application of the tax exemption or payments in lieu in the official newspaper of the city. The city shall prescribe the form of the notice. The two notices must be published at least one week apart. The publications must be completed not less than 15 days nor more than 30 days before the city council approves the tax exemption or payments in lieu of taxes.

History: *1998 c 389 art 12 s 9; 1Sp1998 c 3 s 5; 2000 c 490 art 4 s 33; 2000 c 418 art 1 s 44; 2002 c 377 art 7 s 2; 2005 c 151 art 2 s 17; 2008 c 154 art 12 s 39*

469.1735 LIMIT ON TAX REDUCTIONS; APPLICATIONS REQUIRED.

Subdivision 1. **Businesses must apply.** To claim a tax credit under section 469.1732, subdivision 2, or 469.1734, subdivision 4 or 5, or an exemption from sales tax under section 469.1734, subdivision 6, a business must apply to the city for a tax credit certificate. As a condition of its application, the business must agree to furnish information to the city that is sufficient to verify the eligibility for any credits or other tax reductions claimed. The total amount of the state tax reductions allowed for the specified period may not exceed the amount of the tax credit certificates provided by the city to the business. The city must verify the amount of tax reduction or credits for which each business is eligible.

Subd. 2. **City limitations.** (a) Each city may provide tax credit certificates to businesses that apply and meet the requirements for the tax credit and exemption. The certificates that each city may provide for the period covered by this section is limited to the amount specified in this subdivision.

(b) The maximum amount of tax credit certificates each city may issue over the duration of the program equals the amount of the allocation to the city under section 469.169, subdivision 12.

Subd. 3. **Transfer authority for property tax.** (a) A city may elect to use all or part of its allocation under subdivision 2 to reimburse the city or county or both for property tax reductions under section 272.0212. To elect this option, the city must notify the commissioner of revenue by October 1 of each calendar year of the amount of the property tax reductions for which it seeks reimbursements for taxes payable during the current year and the governmental units to which the amounts will be paid. The commissioner may require the city to provide information substantiating the amount of the reductions granted or any other information necessary to administer this provision. The commissioner shall pay the reimbursements by December 26 of the

taxes payable year. Any amount transferred under this authority reduces the amount of tax credit certificates available under subdivisions 1 and 2.

(b) The amount elected by the city under paragraph (a) is appropriated to the commissioner of revenue from the general fund to reimburse the city or county for tax reductions under section 272.0212. The amount appropriated may not exceed the maximum amounts allocated to a city under subdivision 2, paragraph (b), less the amount of certificates issued by the city under subdivision 1, and is available until expended.

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: *1998 c 389 art 12 s 10; 1999 c 243 art 16 s 28; 2005 c 151 art 5 s 42*

TAX INCREMENT FINANCING

469.174 DEFINITIONS.

Subdivision 1. **Generally.** In sections 469.174 to 469.179, the terms defined in this section have the meanings given them herein, unless the context indicates a different meaning.

Subd. 2. **Authority.** "Authority" means a rural development financing authority created pursuant to sections 469.142 to 469.151; a housing and redevelopment authority created pursuant to sections 469.001 to 469.047; a port authority created pursuant to sections 469.048 to 469.068; an economic development authority created pursuant to sections 469.090 to 469.108; a redevelopment agency as defined in sections 469.152 to 469.165; a municipality that is administering a development district created pursuant to sections 469.124 to 469.134 or any special law; a municipality that undertakes a project pursuant to sections 469.152 to 469.165, except a town located outside the metropolitan area or with a population of 5,000 persons or less; or a municipality that exercises the powers of a port authority pursuant to any general or special law.

Subd. 3. **Bonds.** (a) "Bonds" means any bonds or other obligations issued:

(1) by an authority under section 469.178; or

(2) 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.

(b) Bonds or other obligations include:

(1) refunding bonds;

(2) notes;

(3) interim certificates;

(4) debentures; and

(5) interfund loans or advances qualifying under section 469.178, subdivision 7.

Subd. 4. **Captured net tax capacity.** "Captured net tax capacity" means the amount by which the current net tax capacity of a tax increment financing district or an extended subdistrict exceeds the original net tax capacity, including the value of property normally taxable as personal property by reason of its location on or over property owned by a tax-exempt entity. In the case of a hazardous substance subdistrict, except an extended subdistrict, "captured net tax capacity" means the amount, if any, by which the lesser of (1) the original net tax capacity or (2) the current net tax capacity of the portion of the tax increment financing district overlying the subdistrict exceeds the original net tax capacity of the subdistrict.

Subd. 5. **Governing body.** "Governing body" means the elected council or board of a municipality.

Subd. 6. **Municipality.** "Municipality" means the city, however organized, in which the district is located, with the following exceptions:

(1) for a project undertaken pursuant to sections 469.152 to 469.165, "municipality" has the meaning given in sections 469.152 to 469.165; and

(2) for a project undertaken pursuant to sections 469.142 to 469.151, or a county or multicounty project undertaken pursuant to sections 469.004 to 469.008 or special law, "municipality" means the county in which the district is located.

Subd. 7. **Original net tax capacity.** (a) Except as provided in paragraph (b), "original net tax capacity" means the tax capacity of all taxable real property within a tax increment financing district as certified by the commissioner of revenue for the previous assessment year, provided that the request by an authority for certification of a new tax increment financing district or for the expansion of an existing district has been made to the county auditor by June 30. The original tax capacity of districts for which requests are filed after June 30 has an original tax capacity based on the current assessment year. In any case, the original tax capacity must be determined together with subsequent adjustments as set forth in section 469.177, subdivisions 1 and 4. In determining the original net tax capacity the net tax capacity of real property exempt from taxation at the time of the request shall be zero, except for real property which is tax exempt by reason of public ownership by the requesting authority and which has been publicly owned for less than one year prior to the date of the request for certification, in which event the net tax capacity of the property shall be the net tax capacity as most recently determined by the commissioner of revenue.

(b) The original net tax capacity of any designated hazardous substance site or hazardous substance subdistrict shall be determined as of the date the authority certifies to the county auditor

that the authority has entered a redevelopment or other agreement for the removal actions or remedial actions specified in a development response action plan, or otherwise provided funds to finance the development response action plan. The original net tax capacity equals (1) the net tax capacity of the parcel or parcels in the site or subdistrict, as most recently determined by the commissioner of revenue, less (2) the estimated costs of the removal actions and remedial actions as specified in a development response action plan to be undertaken with respect to the parcel or parcels, (3) but not less than zero.

(c) The original net tax capacity of a hazardous substance site or subdistrict shall be increased by the amount by which it was reduced pursuant to paragraph (b), clause (2), upon certification by the municipality that the cost of the removal and remedial actions specified in the development response action plan, except for long-term monitoring and similar activities, have been paid or reimbursed.

(d) For purposes of this subdivision, "real property" shall include any property normally taxable as personal property by reason of its location on or over publicly owned property.

Subd. 8. **Project.** "Project" means a project as described in section 469.142; an industrial development district as described in section 469.058, subdivision 1; an economic development district as described in section 469.101, subdivision 1; a project as defined in section 469.002, subdivision 12; a development district as defined in section 469.125, subdivision 9, or any special law; or a project as defined in section 469.153, subdivision 2, paragraph (a), (b), or (c).

Subd. 9. **Tax increment financing district.** "Tax increment financing district" or "district" means a contiguous or noncontiguous geographic area within a project delineated in the tax increment financing plan, as provided by section 469.175, subdivision 1, for the purpose of financing redevelopment, housing or economic development in municipalities through the use of tax increment generated from the captured net tax capacity in the tax increment financing district.

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;

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

(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; or

(4) a qualifying disaster area, as defined in subdivision 10b.

(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). Failure of a building to be disqualified under the provisions of this paragraph is a necessary, but not a sufficient, condition to determining that the building is substandard.

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

(1) the parcel was occupied by a substandard building or met the requirements of paragraph (e), as the case may be, 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 or the improvements described in paragraph (e) were 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 or met the requirements of paragraph (e) 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 (f).

(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 (b) through (f), apply.

Subd. 10b. **Qualified disaster area.** A "qualified disaster area" is an area that meets the

following requirements:

(1) parcels consisting of 70 percent of the area of the district were occupied by buildings, streets, utilities, paved or gravel parking lots, or other similar structures immediately before the disaster or emergency;

(2) the area of the district was subject to a disaster or emergency, as defined in section 273.1231, subdivision 2, within the 18-month period ending on the day the request for certification of the district is made; and

(3) 50 percent or more of the buildings in the area have suffered substantial damage as a result of the disaster or emergency.

Subd. 11. **Housing district.** "Housing district" means a type of tax increment financing district which consists of a project, or a portion of a project, intended for occupancy, in part, by persons or families of low and moderate income, as defined in chapter 462A, Title II of the National Housing Act of 1934, the National Housing Act of 1959, the United States Housing Act of 1937, as amended, Title V of the Housing Act of 1949, as amended, any other similar present or future federal, state, or municipal legislation, or the regulations promulgated under any of those acts, and that satisfies the requirements of section 469.1761. Housing project means a project, or a portion of a project, that meets all of the qualifications of a housing district under this subdivision, whether or not actually established as a housing district.

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.

Subd. 13. [Repealed, 2000 c 490 art 11 s 44]

Subd. 14. **Administrative expenses.** "Administrative expenses" means all expenditures of an authority other than:

(1) amounts paid for the purchase of land;

(2) amounts paid to contractors or others providing materials and services, including architectural and engineering services, directly connected with the physical development of the real property in the project;

(3) relocation benefits paid to or services provided for persons residing or businesses located in the project;

(4) amounts used to pay principal or interest on, fund a reserve for, or sell at a discount bonds issued pursuant to section 469.178; or

(5) amounts used to pay other financial obligations to the extent those obligations were used to finance costs described in clauses (1) to (3).

For districts for which the requests for certifications were made before August 1, 1979, or after June 30, 1982, "administrative expenses" includes amounts paid for services provided by bond counsel, fiscal consultants, and planning or economic development consultants.

Subd. 15. **Parcel.** "Parcel" means a tract or plat of land established prior to the certification of the district as a single unit for purposes of assessment.

Subd. 16. **Designated hazardous substance site.** "Designated hazardous substance site" means any parcel or parcels with respect to which the authority has certified to the county auditor that the authority has entered into a redevelopment or other agreement providing for the removal actions or remedial actions specified in a development response action plan or the authority will use other available money, including without limitation tax increments, to finance the removal or remedial actions. A parcel described in the plan or plan amendment may be designated for inclusion in the hazardous substance subdistrict prior to approval of the development action response plan on the basis of the reasonable expectation of the municipality. Such parcel may not be certified as part of the subdistrict until the development action response plan has been approved.

Subd. 17. **Development action response plan.** "Development action response plan" means a plan or proposal for removal actions or remedial actions if the plan or proposal is submitted to the pollution control agency and the actions recommended in the plan or proposal are approved in writing by the commissioner of the agency as reasonable and necessary to protect the public health, welfare, and environment. The commissioner shall review the development action response plan and approve, modify, or reject the recommended actions within 60 days after submission of the plan (or revised plan) by the authority. The commissioner shall notify the authority in writing of the decision on the recommended actions within 30 days after the decision and, if the recommended actions are rejected, shall specify the reasons for rejection.

Subd. 18. **Terms defined in other chapters.** The terms "removal," "remedy," "remedial action," "response," "hazardous substance," and "pollutant or contaminant" have the meanings given in section 115B.02. The term "petroleum" has the meaning given in section 115C.02.

Subd. 19. **Soils condition district.** (a) "Soils condition 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 the following conditions exist:

(1) the presence of hazardous substances, pollution, or contaminants requires removal or remedial action for use;

(2) the estimated cost of the proposed removal and remedial action exceeds the fair market value of the land before completion of the preparation.

The requirements of clause (2) need not be satisfied, if each parcel of property in the district either satisfies the requirements of clause (2) or the estimated costs of the proposed removal or remedial action exceeds $2 per square foot for the area of the parcel.

(b) The proposed removal or remediation action must be specified in a development action response plan to satisfy the requirements of paragraph (a).

Subd. 20. **Internal Revenue Code.** "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended through December 31, 1993.

Subd. 21. **Credit enhanced bonds.** "Credit enhanced bonds" means special obligation bonds that are:

(1) payable primarily from tax increments (i) derived from a tax increment financing district within which the activity, as defined in section 469.1763, subdivision 1, financed by at least the applicable in-district percentage of the bond proceeds is located and (ii) estimated on the date of issuance to be sufficient to pay when due the debt service on the bonds, and

(2) further secured by tax increments (i) derived from one or more tax increment financing districts and (ii) determined by the issuer to be necessary in order to make the marketing of the bonds feasible.

For purposes of this subdivision, "applicable in-district percentage" means the percentage under section 469.1763, subdivision 2, for the district.

Subd. 22. **Tourism facility.** "Tourism facility" means property that:

(1) is located in a county where the median income is no more than 85 percent of the state median income;

(2) is located in a county in development region 2, 3, 4, or 5, as defined in section 462.385;

(3) is not located in a city with a population in excess of 20,000; and

(4) is acquired, constructed, or rehabilitated for use as a convention and meeting facility that is privately owned, marina, hotel, motel, lodging facility, or nonhomestead dwelling unit that in each case is intended to serve primarily individuals from outside the county.

Subd. 23. **Hazardous substance subdistrict.** "Hazardous substance subdistrict" or "subdistrict" means a hazardous substance subdistrict created under section 469.175, subdivision 7.

Subd. 24. **Extended subdistrict.** "Extended subdistrict" means a hazardous substance subdistrict, but only for any period during which the subdistrict remains in effect after the overlying tax increment district has terminated.

Subd. 25. **Increment.** "Increment," "tax increment," "tax increment revenues," "revenues derived from tax increment," and other similar terms for a district include:

(1) taxes paid by the captured net tax capacity, but excluding any excess taxes, as computed under section 469.177;

(2) the proceeds from the sale or lease of property, tangible or intangible, to the extent the property was purchased by the authority with tax increments;

(3) principal and interest received on loans or other advances made by the authority with tax increments;

(4) interest or other investment earnings on or from tax increments;

(5) repayments or return of tax increments made to the authority under agreements for districts for which the request for certification was made after August 1, 1993; and

(6) the market value homestead credit paid to the authority under section 273.1384.

Subd. 26. **Population.** "Population" means the population established as of December 31 by the most recent of the following:

(1) the federal census;

(2) a special census conducted under contract with the United States Bureau of the Census;

(3) a population estimate made by the Metropolitan Council; and

(4) a population estimate made by the state demographer under section 4A.02.

The population so established applies to the following calendar year.

Subd. 27. **Small city.** "Small city" means any home rule charter or statutory city that has a population of 5,000 or less and that is located ten miles or more from a home rule charter or statutory city, located in this state, with a population of 10,000 or more. For purposes of this definition, the distance between cities is measured by drawing a straight line from the nearest boundaries of the two cities.

Subd. 28. **Decertify or decertification.** "Decertify" or "decertification" means the termination of a tax increment financing district which occurs when the county auditor removes all remaining parcels from the district.

Subd. 29. [Repealed, 2008 c 154 art 9 s 25]

History: *1987 c 291 s 175; 1988 c 719 art 5 s 84; art 12 s 1-8; 1989 c 277 art 2 s 62; 1989 c 329 art 13 s 20; 1Sp1989 c 1 art 14 s 1-5; 1990 c 391 art 8 s 50; 1990 c 604 art 7 s 4-9; 1991 c 291 art 10 s 4,5; 1993 c 375 art 14 s 4-6; 1994 c 465 art 1 s 53; 1994 c 587 art 1 s 24; 1995 c 264 art 5 s 12-16; 1996 c 471 art 7 s 9,10; 1997 c 231 art 10 s 1-4; 1998 c 389 art 11 s 1; 1999 c 248 s 20; 2000 c 490 art 11 s 13-18; 1Sp2001 c 5 art 15 s 3-6; 2003 c 127 art 10 s 1-5; 1Sp2003 c 21*

art 10 s 2-4; 2005 c 152 art 2 s 5,6; 2008 c 154 art 9 s 2,3; 2008 c 366 art 15 s 20

469.175 ESTABLISHING, CHANGING TIF PLAN, ANNUAL ACCOUNTS.

Subdivision 1. **Tax increment financing plan.** (a) 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, identified by parcel number, identifiable property name, block, or other appropriate means indicating the area in which the authority intends to acquire properties;

(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 administrative expenses, except that if part of the cost of the project is paid or financed with increment from the tax increment financing district, the tax increment financing plan for the district must contain an estimate of the amount of the cost of the project, including administrative expenses, that will be paid or financed with tax increments from the district;

(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.

(b) The authority may specify in the tax increment financing plan the first year in which it elects to receive increment, up to four years following the year of approval of the district. This paragraph does not apply to an economic development district.

Subd. 1a. **Inclusion of county road costs.** (a) The county board may require the authority to pay all or a portion of the cost of county road improvements out of increment revenues, if the following conditions occur:

(1) the proposed tax increment financing plan or an amendment to the plan contemplates construction of a development that will, in the judgment of the county, substantially increase the use of county roads requiring construction of road improvements or other road costs; and

(2) the road improvements or other road costs are not scheduled for construction within five years under the county capital improvement plan or within five years under another formally adopted county plan, and in the opinion of the county, would not reasonably be expected to be needed within the reasonably foreseeable future if the tax increment financing plan were not implemented.

(b) If the county elects to use increments to finance the road improvements, the county must notify the authority and municipality within 45 days after receipt of the proposed tax increment financing plan under subdivision 2. The notice must include the estimated cost of the road improvements and schedule for construction and payment of the cost. The authority must include the improvements in the tax increment financing plan. The improvements may be financed with the proceeds of tax increment bonds or the authority and the county may agree that the county will finance the improvements with county funds to be repaid in installments, with or without interest, out of increment revenues. If the cost of the road improvements and other project costs exceed the projected amount of the increment revenues, the county and authority shall negotiate an agreement, modifying the development plan or proposed road improvements that will permit financing of the costs before the tax increment financing plan may be approved.

Subd. 2. **Consultations; comment and filing.** (a) Before formation of a tax increment financing district, the authority shall provide the county auditor and clerk of the school board with the proposed tax increment financing plan for the district and the authority's estimate of the fiscal and economic implications of the proposed tax increment financing district. The authority must provide the proposed tax increment financing plan and the information on the fiscal and economic

implications of the plan to the county auditor and the clerk of the school district board at least 30 days before the public hearing required by subdivision 3. The information on the fiscal and economic implications may be included in or as part of the tax increment financing plan. The county auditor and clerk of the school board shall provide copies to the members of the boards, as directed by their respective boards. The 30-day requirement is waived if the boards of the county and school district submit written comments on the proposal and any modification of the proposal to the authority after receipt of the information.

(b) For purposes of this subdivision, "fiscal and economic implications of the proposed tax increment financing district" includes:

(1) an estimate of the total amount of tax increment that will be generated over the life of the district;

(2) a description of the probable impact of the district on city-provided services such as police and fire protection, public infrastructure, and the impact of any general obligation tax increment bonds attributable to the district upon the ability to issue other debt for general fund purposes;

(3) the estimated amount of tax increments over the life of the district that would be attributable to school district levies, assuming the school district's share of the total local tax rate for all taxing jurisdictions remained the same;

(4) the estimated amount of tax increments over the life of the district that would be attributable to county levies, assuming the county's share of the total local tax rate for all taxing jurisdictions remained the same; and

(5) additional information regarding the size, timing, or type of development in the district requested by the county or the school district that would enable it to determine additional costs that will accrue to it due to the development proposed for the district. If a county or school district has not adopted standard questions in a written policy on information requested for fiscal and economic implications, a county or school district must request additional information no later than 15 days after receipt of the tax increment financing plan and the request does not require an additional 30 days of notice before the public hearing.

Subd. 2a. **Housing districts; redevelopment districts.** In the case of a proposed housing district or redevelopment district, in addition to the requirements of subdivision 2, at least 30 days before the publication of the notice for public hearing under subdivision 3, the authority shall deliver written notice of the proposed district to each county commissioner who represents part of the area proposed to be included in the district. The notice must contain a general description of the boundaries of the proposed district and the proposed activities to be financed by the district, an offer by the authority to meet and discuss the proposed district with the county commissioner, and a solicitation of the commissioner's comments with respect to the district. The commissioner

may waive the 30-day requirement by submitting written comments on the proposal and any modification of the proposal to the authority after receipt of the information.

Subd. 3. **Municipality approval.** (a) A county auditor shall not certify the original net tax capacity of a tax increment financing district until the tax increment financing plan proposed for that district has been approved by the municipality in which the district is located. If an authority that proposes to establish a tax increment financing district and the municipality are not the same, the authority shall apply to the municipality in which the district is proposed to be located and shall obtain the approval of its tax increment financing plan by the municipality before the authority may use tax increment financing. The municipality shall approve the tax increment financing plan only after a public hearing thereon after published notice in a newspaper of general circulation in the municipality at least once not less than ten days nor more than 30 days prior to the date of the hearing. The published notice must include a map of the area of the district from which increments may be collected and, if the project area includes additional area, a map of the project area in which the increments may be expended. The hearing may be held before or after the approval or creation of the project or it may be held in conjunction with a hearing to approve the project.

(b) Before or at the time of approval of the tax increment financing plan, the municipality shall make the following findings, and shall set forth in writing the reasons and supporting facts for each determination:

(1) that the proposed tax increment financing district is a redevelopment district, a renewal or renovation district, a housing district, a soils condition district, or an economic development district; if the proposed district is a redevelopment district or a renewal or renovation district, the reasons and supporting facts for the determination that the district meets the criteria of section 469.174, subdivision 10, paragraph (a), clauses (1) and (2), or subdivision 10a, must be documented in writing and retained and made available to the public by the authority until the district has been terminated;

(2) that, in the opinion of the municipality:

(i) the proposed development or redevelopment would not reasonably be expected to occur solely through private investment within the reasonably foreseeable future; and

(ii) the increased market value of the site that could reasonably be expected to occur without the use of tax increment financing would be less than the increase in the market value estimated to result from the proposed development after subtracting the present value of the projected tax increments for the maximum duration of the district permitted by the plan. The requirements of this item do not apply if the district is a housing district;

(3) that the tax increment financing plan conforms to the general plan for the development or redevelopment of the municipality as a whole;

(4) that the tax increment financing plan will afford maximum opportunity, consistent with the sound needs of the municipality as a whole, for the development or redevelopment of the project by private enterprise;

(5) that the municipality elects the method of tax increment computation set forth in section 469.177, subdivision 3, paragraph (b), if applicable.

(c) When the municipality and the authority are not the same, the municipality shall approve or disapprove the tax increment financing plan within 60 days of submission by the authority. When the municipality and the authority are not the same, the municipality may not amend or modify a tax increment financing plan except as proposed by the authority pursuant to subdivision 4. Once approved, the determination of the authority to undertake the project through the use of tax increment financing and the resolution of the governing body shall be conclusive of the findings therein and of the public need for the financing.

(d) For a district that is subject to the requirements of paragraph (b), clause (2), item (ii), the municipality's statement of reasons and supporting facts must include all of the following:

(1) an estimate of the amount by which the market value of the site will increase without the use of tax increment financing;

(2) an estimate of the increase in the market value that will result from the development or redevelopment to be assisted with tax increment financing; and

(3) the present value of the projected tax increments for the maximum duration of the district permitted by the tax increment financing plan.

(e) For purposes of this subdivision, "site" means the parcels on which the development or redevelopment to be assisted with tax increment financing will be located.

Subd. 4. **Modification of plan.** (a) A tax increment financing plan may be modified by an authority.

(b) The authority may make the following modifications only upon the notice and after the discussion, public hearing, and findings required for approval of the original plan:

(1) any reduction or enlargement of geographic area of the project or tax increment financing district that does not meet the requirements of paragraph (e);

(2) increase in amount of bonded indebtedness to be incurred;

(3) a determination to capitalize interest on the debt if that determination was not a part of the original plan;

(4) increase in the portion of the captured net tax capacity to be retained by the authority;

(5) increase in the estimate of the cost of the project, including administrative expenses, that will be paid or financed with tax increment from the district; or

(6) designation of additional property to be acquired by the authority.

(c) If an authority changes the type of district to another type of district, this change is not a modification but requires the authority to follow the procedure set forth in sections 469.174 to 469.179 for adoption of a new plan, including certification of the net tax capacity of the district by the county auditor.

(d) If a redevelopment district or a renewal and renovation district is enlarged, the reasons and supporting facts for the determination that the addition to the district meets the criteria of section 469.174, subdivision 10, paragraph (a), clauses (1) and (2), or subdivision 10a, must be documented.

(e) The requirements of paragraph (b) do not apply if (1) the only modification is elimination of parcels from the project or district and (2)(A) the current net tax capacity of the parcels eliminated from the district equals or exceeds the net tax capacity of those parcels in the district's original net tax capacity or (B) the authority agrees that, notwithstanding section 469.177, subdivision 1, the original net tax capacity will be reduced by no more than the current net tax capacity of the parcels eliminated from the district. The authority must notify the county auditor of any modification that reduces or enlarges the geographic area of a district or a project area.

(f) The geographic area of a tax increment financing district may be reduced, but shall not be enlarged after five years following the date of certification of the original net tax capacity by the county auditor or after August 1, 1984, for tax increment financing districts authorized prior to August 1, 1979.

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 and the state auditor. The authority must also file a copy of the development plan or the project plan for the project area with the commissioner of revenue and the state auditor.

(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.

Subd. 5. **Annual disclosure.** An annual statement showing for each district the information required to be reported under subdivision 6, paragraph (c), clauses (1), (2), (3), (11), (12), (18), and (19); the amounts of tax increment received and expended in the reporting period; and any additional information the authority deems necessary must be published in a newspaper of general circulation in the municipality that approved the tax increment financing plan. The annual statement must inform readers that additional information regarding each district may be obtained from the authority, and must explain how the additional information may be requested. The

authority must publish the annual statement for a year no later than August 15 of the next year. The authority must identify the newspaper of general circulation in the municipality to which the annual statement has been or will be submitted for publication and provide a copy of the annual statement to the county board, the county auditor, the state auditor, and, if the authority is other than the municipality, the governing body of the municipality on or before August 1 of the year in which the statement must be published.

The disclosure requirements imposed by this subdivision apply to districts certified before, on, or after August 1, 1979.

Subd. 6. **Annual financial reporting.** (a) The state auditor shall develop a uniform system of accounting and financial reporting for tax increment financing districts. The system of accounting and financial reporting shall, as nearly as possible:

(1) provide for full disclosure of the sources and uses of public funds in the district;

(2) permit comparison and reconciliation with the affected local government's accounts and financial reports;

(3) permit auditing of the funds expended on behalf of a district, including a single district that is part of a multidistrict project or that is funded in part or whole through the use of a development account funded with tax increments from other districts or with other public money;

(4) be consistent with generally accepted accounting principles.

(b) The authority must annually submit to the state auditor a financial report in compliance with paragraph (a). Copies of the report must also be provided to the county auditor and to the governing body of the municipality, if the authority is not the municipality. To the extent necessary to permit compliance with the requirement of financial reporting, the county and any other appropriate local government unit or private entity must provide the necessary records or information to the authority or the state auditor as provided by the system of accounting and financial reporting developed pursuant to paragraph (a). The authority must submit the annual report for a year on or before August 1 of the next year.

(c) The annual financial report must also include the following items:

(1) the original net tax capacity of the district and any subdistrict under section 469.177, subdivision 1;

(2) the net tax capacity for the reporting period of the district and any subdistrict;

(3) the captured net tax capacity of the district;

(4) any fiscal disparity deduction from the captured net tax capacity under section 469.177, subdivision 3;

(5) the captured net tax capacity retained for tax increment financing under section 469.177, subdivision 2, paragraph (a), clause (1);

(6) any captured net tax capacity distributed among affected taxing districts under section 469.177, subdivision 2, paragraph (a), clause (2);

(7) the type of district;

(8) the date the municipality approved the tax increment financing plan and the date of approval of any modification of the tax increment financing plan, the approval of which requires notice, discussion, a public hearing, and findings under subdivision 4, paragraph (a);

(9) the date the authority first requested certification of the original net tax capacity of the district and the date of the request for certification regarding any parcel added to the district;

(10) the date the county auditor first certified the original net tax capacity of the district and the date of certification of the original net tax capacity of any parcel added to the district;

(11) the month and year in which the authority has received or anticipates it will receive the first increment from the district;

(12) the date the district must be decertified;

(13) for the reporting period and prior years of the district, the actual amount received from, at least, the following categories:

(i) tax increments paid by the captured net tax capacity retained for tax increment financing under section 469.177, subdivision 2, paragraph (a), clause (1), but excluding any excess taxes;

(ii) tax increments that are interest or other investment earnings on or from tax increments;

(iii) tax increments that are proceeds from the sale or lease of property, tangible or intangible, purchased by the authority with tax increments;

(iv) tax increments that are repayments of loans or other advances made by the authority with tax increments;

(v) bond or loan proceeds;

(vi) special assessments;

(vii) grants;

(viii) transfers from funds not exclusively associated with the district; and

(ix) the market value homestead credit paid to the authority under section 273.1384;

(14) for the reporting period and for the prior years of the district, the actual amount expended for, at least, the following categories:

(i) acquisition of land and buildings through condemnation or purchase;

(ii) site improvements or preparation costs;

(iii) installation of public utilities, parking facilities, streets, roads, sidewalks, or other similar public improvements;

(iv) administrative costs, including the allocated cost of the authority;

(v) public park facilities, facilities for social, recreational, or conference purposes, or other similar public improvements; and

(vi) transfers to funds not exclusively associated with the district;

(15) the amount of any payments for activities and improvements located outside of the district that are paid for or financed with tax increments;

(16) the amount of payments of principal and interest that are made during the reporting period on any nondefeased:

(i) general obligation tax increment financing bonds;

(ii) other tax increment financing bonds; and

(iii) notes and pay-as-you-go contracts;

(17) the principal amount, at the end of the reporting period, of any nondefeased:

(i) general obligation tax increment financing bonds;

(ii) other tax increment financing bonds; and

(iii) notes and pay-as-you-go contracts;

(18) the amount of principal and interest payments that are due for the current calendar year on any nondefeased:

(i) general obligation tax increment financing bonds;

(ii) other tax increment financing bonds; and

(iii) notes and pay-as-you-go contracts;

(19) if the fiscal disparities contribution under chapter 276A or 473F for the district is computed under section 469.177, subdivision 3, paragraph (a), the amount of increased property taxes imposed on other properties in the municipality that approved the tax increment financing plan as a result of the fiscal disparities contribution;

(20) the estimate, if any, contained in the tax increment financing plan of the amount of the cost of the project, including administrative expenses, that will be paid or financed with tax increment; and

(21) any additional information the state auditor may require.

(d) The commissioner of revenue shall prescribe the method of calculating the increased property taxes under paragraph (c), clause (19), and the form of the statement disclosing this information on the annual statement under subdivision 5.

(e) The reporting requirements imposed by this subdivision apply to districts certified before, on, and after August 1, 1979.

Subd. 6a. [Repealed, 2000 c 490 art 11 s 44]

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.

Subd. 7. **Creation of hazardous substance subdistrict; response actions.** (a) An authority which is creating or has created a tax increment financing district may establish within the district a hazardous substance subdistrict upon the notice and after the discussion, public hearing, and findings required for approval of or modification to the original plan. The geographic area of the subdistrict is made up of any parcels in the district designated for inclusion by the municipality or authority that are designated hazardous substance sites, and any additional parcels in the district designated for inclusion that are contiguous to the hazardous substance sites, including parcels that are contiguous to the site except for the interposition of a right-of-way. Before or at the time of approval of the tax increment financing plan or plan modification providing for the creation of the hazardous substance subdistrict, the authority must make the findings under paragraphs (b) to (d), and set forth in writing the reasons and supporting facts for each.

(b) Development or redevelopment of the site, in the opinion of the authority, would not reasonably be expected to occur solely through private investment and tax increment otherwise available, and therefore the hazardous substance district is deemed necessary.

(c) Other parcels that are not designated hazardous substance sites are expected to be developed together with a designated hazardous substance site.

(d) The subdistrict is not larger than, and the period of time during which increments are elected to be received is not longer than, that which is necessary in the opinion of the authority to provide for the additional costs due to the designated hazardous substance site.

(e) Upon request by an authority that has incurred expenses for removal or remedial actions to implement a development response action plan, the attorney general may:

(1) bring a civil action on behalf of the authority to recover the expenses, including administrative costs and litigation expenses, under section 115B.04 or other law; or

(2) assist the authority in bringing an action as described in clause (1), by providing legal and technical advice, intervening in the action, or other appropriate assistance.

The decision to participate in any action to recover expenses is at the discretion of the attorney general.

(f) If the attorney general brings an action as provided in paragraph (e), clause (1), the authority shall certify its reasonable and necessary expenses incurred to implement the development response action plan and shall cooperate with the attorney general as required to effectively pursue the action. The certification by the authority is prima facie evidence that the expenses are reasonable and necessary. The attorney general may deduct litigation expenses incurred by the attorney general from any amounts recovered in an action brought under paragraph (e), clause (1). The authority shall reimburse the attorney general for litigation expenses not recovered in an action under paragraph (e), clause (1), but only from the additional tax increment required to be used as described in section 469.176, subdivision 4e. The authority must reimburse the attorney general for litigation expenses incurred to assist in bringing an action under paragraph (e), clause (2), but only from amounts recovered by the authority in an action or, if the amounts are insufficient, from the additional tax increment required to be used as described in section 469.176, subdivision 4e. All money recovered or paid to the attorney general for litigation expenses under this paragraph shall be paid to the general fund of the state for deposit to the account of the attorney general. For the purposes of this section, "litigation expenses" means attorney fees and costs of discovery and other preparation for litigation.

(g) The authority shall reimburse the pollution control agency for its administrative expenses incurred to review and approve a development action response plan. The authority must reimburse the Pollution Control Agency for expenses incurred for any services rendered to the attorney general to support the attorney general in actions brought or assistance provided under paragraph (e), but only from amounts recovered by the authority in an action brought under paragraph (e) or from the additional tax increment required to be used as described in section 469.176, subdivision 4e. All money paid to the pollution control agency under this paragraph shall be deposited in the remediation fund.

(h) Actions taken by an authority consistent with a development response action plan are deemed to be authorized response actions for the purpose of section 115B.17, subdivision 12. An authority that takes actions consistent with a development response action plan qualifies for the defenses available under sections 115B.04, subdivision 11, and 115B.05, subdivision 9.

(i) All money recovered by an authority in an action brought under paragraph (e) in excess of the amounts paid to the attorney general and the Pollution Control Agency must be treated as excess increments and be distributed as provided in section 469.176, subdivision 2, clause (4), to the extent the removal and remedial actions were initially financed with increment revenues.

Subd. 7a. [Repealed, 1995 c 264 art 5 s 48]

Subd. 8. **Payment of debt service on credit enhanced bonds.** A tax increment financing plan may provide for the use of the tax increment to pay, or secure payment of, debt service on credit enhanced bonds issued to finance any project located within the boundaries of the municipality, whether or not the tax increment financing district from which the increment is derived is located within the boundaries of the project.

History: *1987 c 291 s 176; 1987 c 312 art 1 s 26 subd 2; 1988 c 719 art 5 s 84; art 12 s 9-14; 1989 c 277 art 2 s 63; 1989 c 329 art 13 s 20; 1989 c 335 art 1 s 246,247; 1Sp1989 c 1 art 14 s 6-8; 1990 c 604 art 7 s 10-14; 1993 c 375 art 3 s 43; art 14 s 7-9; 1995 c 264 art 5 s 17-21; 1996 c 471 art 7 s 11-13; art 11 s 14; 1997 c 231 art 10 s 5; 1998 c 389 art 11 s 2-5; 1999 c 248 s 20; 2000 c 490 art 11 s 19-24; 1Sp2001 c 5 art 15 s 7-9; 2003 c 127 art 10 s 6-9; 2003 c 128 art 2 s 45; 2005 c 152 art 2 s 7-11; 2006 c 259 art 10 s 1-3; 2008 c 154 art 9 s 4,5*

469.176 LIMITATIONS.

Subdivision 1. **Duration of tax increment financing districts.** (a) Subject to the limitations contained in subdivisions 1a to 1f, any tax increment financing district as to which bonds are outstanding, payment for which the tax increment and other revenues have been pledged, shall remain in existence at least as long as the bonds continue to be outstanding. The municipality may, at the time of approval of the initial tax increment financing plan, provide for one or both of the following:

(1) a shorter maximum duration limit than specified in subdivisions 1a to 1f;

(2) an election as provided under section 469.175, subdivision 1, paragraph (b).

The specified limit applies in place of the otherwise applicable limit, unless the authority modifies the plan following the procedures under section 469.175, subdivision 4, paragraph (b).

(b) The tax increment pledged to the payment of the bonds and interest thereon may be discharged and the tax increment financing district may be terminated if sufficient funds have been irrevocably deposited in the debt service fund or other escrow account held in trust for all outstanding bonds to provide for the payment of the bonds at maturity or date of redemption and interest thereon to the maturity or redemption date.

(c) For bonds issued pursuant to section 469.178, subdivisions 2 and 3, the full faith and credit and any taxing powers of the municipality or authority are pledged to the payment of the bonds until the principal of and interest on the bonds has been paid in full.

Subd. 1a. [Repealed, 2005 c 152 art 2 s 31]

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.

Subd. 1c. **Duration limits; pre-1979 districts.** (a) For tax increment financing districts created prior to August 1, 1979, no tax increment shall be paid to the authority after April 1, 2001, or the term of a nondefeased bond or obligation outstanding on April 1, 1990, secured by increments from the district or project area, whichever time is greater, provided that in no case will a tax increment be paid to an authority after August 1, 2009, from such a district. If a district's termination date is extended beyond April 1, 2001, because bonds were outstanding on April 1, 1990, with maturities extending beyond April 1, 2001, the following restrictions apply. No increment collected from the district may be expended after April 1, 2001, except to pay or repay:

(1) bonds issued before April 1, 1990;

(2) bonds issued to refund the principal of the outstanding bonds and pay associated issuance costs;

(3) administrative expenses of the district required to be paid under section 469.176, subdivision 4h, paragraph (a);

(4) transfers of increment permitted under section 469.1763, subdivision 6; and

(5) any advance or payment made by the municipality or the authority after June 1, 2002, to pay any bonds listed in clause (1) or (2).

(b) Each year, any increments from a district subject to this subdivision must be first applied to pay obligations listed under paragraph (a), clauses (1) and (2), and administrative expenses under paragraph (a), clause (3). Any remaining increments may be used for transfers of increments permitted under section 469.1763, subdivision 6, and to make payments under paragraph (a), clause (5).

(c) When sufficient money has been received to pay in full or defease obligations under paragraph (a), clauses (1), (2), and (5), the tax increment project or district must be decertified.

Subd. 1d. **Duration limits; effect of modifications.** Modification of a tax increment financing plan pursuant to section 469.175, subdivision 4, shall not extend the durational limitations of subdivisions 1 to 1f.

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.

Subd. 1f. **Delinquent taxes after termination.** If a parcel located in the district has delinquent property taxes when the district terminates under the duration limits, the payment of the parcel's delinquent taxes made after decertification of the district are tax increments to the extent the nonpayment of property taxes caused the outstanding bonds or contractual obligations pledged to be paid by the district to be paid by sources other than tax increments or to go unpaid. The county auditor shall pay the appropriate amount to the district. The authority shall provide the county auditor with information regarding the payment of outstanding bonds or contractual obligations and any other information necessary to administer the payment, as requested by the county auditor.

Subd. 1g. **Extension to recover cleanup costs.** (a) The authority, with the approval of the municipality, may extend the duration of a district beyond the limit that otherwise applies under this section, if the following circumstances apply:

(1) after the district is established, contamination, hazardous substances, pollution, or other materials requiring removal or remediation are found in the district;

(2) the authority elects not to create a hazardous substance subdistrict; and

(3) the municipality pays for the cost of removal, cleanup, or remediation out of its general fund or other money of the municipality, except revenues from tax increments.

(b) The maximum duration extension permitted by this subdivision is the lesser of (1) ten years after the district otherwise would have terminated or (2) the number of additional years necessary to collect increment equal to the cleanup costs paid by the municipality out of funds other than tax increments. Cleanup costs are limited to the actual costs of removal and remediation, and do not include financing or interest costs. Cleanup costs do include testing and engineering costs. Cleanup costs must be reduced by any reimbursements or amounts recovered from private parties or other responsible parties.

Subd. 1h. [Repealed, 2002 c 377 art 7 s 13]

Subd. 2. **Excess increments.** (a) The authority shall annually determine the amount of excess increments for a district, if any. This determination must be based on the tax increment financing plan in effect on December 31 of the year and the increments and other revenues received as of December 31 of the year. The authority must spend or return the excess increments under paragraph (c) within nine months after the end of the year.

(b) For purposes of this subdivision, "excess increments" equals the excess of:

(1) total increments collected from the district since its certification, reduced by any excess increments paid under paragraph (c), clause (4), for a prior year, over

(2) the total costs authorized by the tax increment financing plan to be paid with increments from the district, reduced, but not below zero, by the sum of:

(i) the amounts of those authorized costs that have been paid from sources other than tax increments from the district;

(ii) revenues, other than tax increments from the district, that are dedicated for or otherwise required to be used to pay those authorized costs and that the authority has received and that are not included in item (i);

(iii) the amount of principal and interest obligations due on outstanding bonds after December 31 of the year and not prepaid under paragraph (c) in a prior year; and

(iv) increased by the sum of the transfers of increments made under section 469.1763, subdivision 6, to reduce deficits in other districts made by December 31 of the year.

(c) The authority shall use excess increment only to do one or more of the following:

(1) prepay any outstanding bonds;

(2) discharge the pledge of tax increment for any outstanding bonds;

(3) pay into an escrow account dedicated to the payment of any outstanding bonds; or

(4) return the excess amount to the county auditor who shall distribute the excess amount to the city or town, county, and school district in which the tax increment financing district is located in direct proportion to their respective local tax rates.

(d) For purposes of a district for which the request for certification was made prior to August 1, 1979, excess increments equal the amount of increments on hand on December 31, less the principal and interest obligations due on outstanding bonds or advances, qualifying under subdivision 1c, clauses (1), (2), (4), and (5), after December 31 of the year and not prepaid under paragraph (c).

(e) The county auditor must report to the commissioner of education the amount of any excess tax increment distributed to a school district within 30 days of the distribution.

(f) For purposes of this subdivision, "outstanding bonds" means bonds which are secured by increments from the district.

(g) The state auditor may exempt an authority from reporting the amounts calculated under this subdivision for a calendar year, if the authority certifies to the auditor in its report that the total amount authorized by the tax increment plan to be paid with increments from the district exceeds the sum of the total increments collected for the district for all years by 20 percent.

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 estimated 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 estimated 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

estimated tax increment expenditures authorized by the tax increment financing plan or the total tax increments, as defined in section 469.174, subdivision 25, clause (1), from the district, whichever is less.

Subd. 4. **Limitation on use of tax increment; general rule.** All revenues derived from tax increment shall be used in accordance with the tax increment financing plan. The revenues shall be used solely for the following purposes: (1) to pay the principal of and interest on bonds issued to finance a project; (2) by a rural development financing authority for the purposes stated in section 469.142, by a port authority or municipality exercising the powers of a port authority to finance or otherwise pay the cost of redevelopment pursuant to sections 469.048 to 469.068, by an economic development authority to finance or otherwise pay the cost of redevelopment pursuant to sections 469.090 to 469.108, by a housing and redevelopment authority or economic development authority to finance or otherwise pay public redevelopment costs pursuant to sections 469.001 to 469.047, by a municipality or economic development authority to finance or otherwise pay the capital and administration costs of a development district pursuant to sections 469.124 to 469.134, by a municipality or authority to finance or otherwise pay the costs of developing and implementing a development action response plan, by a municipality or redevelopment agency to finance or otherwise pay premiums for insurance or other security guaranteeing the payment when due of principal of and interest on the bonds pursuant to chapter 462C, sections 469.152 to 469.165, or both, or to accumulate and maintain a reserve securing the payment when due of the principal of and interest on the bonds pursuant to chapter 462C, sections 469.152 to 469.165, or both, which revenues in the reserve shall not exceed, subsequent to the fifth anniversary of the date of issue of the first bond issue secured by the reserve, an amount equal to 20 percent of the aggregate principal amount of the outstanding and nondefeased bonds secured by the reserve.

Subd. 4a. [Repealed, 2000 c 490 art 11 s 44]

Subd. 4b. **Soils condition districts.** Revenue derived from tax increment from a soils condition district may be used only to (1) acquire parcels on which the improvements described in clause (2) will occur; (2) pay for the cost of removal or remedial action; and (3) pay for the administrative expenses of the authority allocable to the district, including the cost of preparation of the development action response plan.

Subd. 4c. **Economic development districts.** (a) Revenue derived from tax increment from an economic development district may not be used to provide improvements, loans, subsidies, grants, interest rate subsidies, or assistance in any form to developments consisting of buildings and ancillary facilities, if more than 15 percent of the buildings and facilities (determined on the basis of square footage) are used for a purpose other than:

(1) the manufacturing or production of tangible personal property, including processing resulting in the change in condition of the property;

(2) warehousing, storage, and distribution of tangible personal property, excluding retail sales;

(3) research and development related to the activities listed in clause (1) or (2);

(4) telemarketing if that activity is the exclusive use of the property;

(5) tourism facilities;

(6) qualified border retail facilities; or

(7) space necessary for and related to the activities listed in clauses (1) to (6).

(b) Notwithstanding the provisions of this subdivision, revenue derived from tax increment from an economic development district may be used to pay for site preparation and public improvements, if the following conditions are met:

(1) bedrock soils conditions are present in 80 percent or more of the acreage of the district;

(2) the estimated cost of physical preparation of the site exceeds the fair market value of the land before completion of the preparation; and

(3) revenues from tax increments are expended only for the additional costs of preparing the site because of unstable soils and the bedrock soils condition, the additional cost of installing public improvements because of unstable soils or the bedrock soils condition, and reasonable administrative costs.

(c) Notwithstanding the provisions of this subdivision, revenues derived from tax increment from an economic development district may be used to provide improvements, loans, subsidies, grants, interest rate subsidies, or assistance in any form for up to 15,000 square feet of any separately owned commercial facility located within the municipal jurisdiction of a small city, if the revenues derived from increments are spent only to assist the facility directly or for administrative expenses, the assistance is necessary to develop the facility, and all of the increments, except those for administrative expenses, are spent only for activities within the district.

(d) For purposes of this subdivision, a qualified border retail facility is a development consisting of a shopping center or one or more retail stores, if the authority finds that all of the following conditions are satisfied:

(1) the district is in a small city located within one mile or less of the border of the state;

(2) the development is not located in the seven-county metropolitan area, as defined in section 473.121, subdivision 2;

(3) the development will contain new buildings or will substantially rehabilitate existing buildings that together contain at least 25,000 square feet of retail space; and

(4) without the use of tax increment financing for the development, the development or a similar competing development will instead occur in the bordering state or province.

(e) A city is a small city for purposes of this subdivision if the city was a small city in the year in which the request for certification was made and applies for the rest of the duration of the district, regardless of whether the city qualifies or ceases to qualify as a small city.

Subd. 4d. **Housing districts.** Revenue derived from tax increment from a housing district must be used solely to finance the cost of housing projects as defined in sections 469.174, subdivision 11, and 469.1761. The cost of public improvements directly related to the housing projects and the allocated administrative expenses of the authority may be included in the cost of a housing project.

Subd. 4e. **Hazardous substance subdistricts.** The additional tax increment received by the municipality from a hazardous substance subdistrict as a result of a reduction in original net tax capacity pursuant to section 469.174, subdivision 7, paragraph (b), or as a result of the extension of the period for collection of tax increment from a hazardous substance site or subdistrict provided for in subdivision 1, paragraph (g), may be used only to pay or reimburse the costs of: (1) removal actions or remedial actions with respect to hazardous substances or pollutants or contaminants or petroleum releases affecting or which may affect the designated hazardous substance site; (2) pollution testing, demolition, and soil compaction correction necessitated by the development response action plan for the designated hazardous substance site; (3) purchase of environmental insurance or deposits to a guaranty fund, relating only to liability or response costs for land in the subdistrict; and (4) related administrative and legal costs, including costs of review and approval of development response action plans by the pollution control agency and litigation expenses of the attorney general.

Subd. 4f. **Interest reduction.** Revenues derived from tax increment may be used to finance the costs of an interest reduction program operated pursuant to section 469.012, subdivisions 7 to 10, or pursuant to other law granting interest reduction authority and power by reference to those subdivisions only under the following conditions: (1) tax increments may not be collected for a program for a period in excess of 15 years after the date of the first interest rate reduction payment for the program, (2) tax increments may not be used for an interest reduction program, if the proceeds of bonds issued pursuant to section 469.178 after December 31, 1985, have been or will be used to provide financial assistance to the specific project which would receive the benefit of the interest reduction program, and (3) tax increments may not be used to finance an interest reduction program for owner-occupied single-family dwellings.

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.

Subd. 4h. **County costs.** (a) Tax increments may be used to pay for the county's actual administrative expenses under sections 469.174 to 469.179. The county may require payment of those expenses by February 15 of the year after the year in which the expenses are incurred. The amount of these payments is not required to be set forth in the tax increment financing plan for the project. To obtain payment for actual administrative costs, the county auditor must submit to the authority a record of costs incurred by the county auditor related to administration of the authority's tax increment financing districts.

(b) Tax increments may be used to pay county road costs as provided in section 469.175, subdivision 1a.

Subd. 4i. **Multicounty use prohibited.** If a tax increment district is located in a municipality, parts of which are situated in more than one county, the revenue derived from tax increments from parcels located in one county must be expended for the direct and primary benefit of a project located or conducted within that county, unless the county boards of each of the counties involved agree to waive this requirement.

Subd. 4j. **Redevelopment districts.** At least 90 percent of the revenues derived from tax increments from a redevelopment district or renewal and renovation district must be used to finance the cost of correcting conditions that allow designation of redevelopment and renewal

and renovation districts under section 469.174. These costs include, but are not limited to, acquiring properties containing structurally substandard buildings or improvements or hazardous substances, pollution, or contaminants, acquiring adjacent parcels necessary to provide a site of sufficient size to permit development, demolition and rehabilitation of structures, clearing of the land, the removal of hazardous substances or remediation necessary to development of the land, and installation of utilities, roads, sidewalks, and parking facilities for the site. The allocated administrative expenses of the authority, including the cost of preparation of the development action response plan, may be included in the qualifying costs.

Subd. 4k. **Assisting housing outside project area.** Notwithstanding the definition of a project under section 469.174, increments may be spent to assist housing that meets the requirements under section 469.1763, subdivision 2, paragraph (d), regardless of whether the housing is located within the boundaries of the project area.

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, whether it is public or privately owned or whether it is ancillary to a use listed in paragraph (a).

Subd. 5. **Requirement for agreements.** No more than 25 percent, by acreage, of the property to be acquired within a project which contains a redevelopment district, or ten percent, by acreage, of the property to be acquired within a project which contains a housing or economic development district, as set forth in the tax increment financing plan, shall at any time be owned by an authority as a result of acquisition with the proceeds of bonds issued pursuant to section 469.178 to which tax increment from the property acquired is pledged unless prior to acquisition in excess of the percentages, the authority has concluded an agreement for the development or redevelopment of the property acquired and which provides recourse for the authority should the development or redevelopment not be completed. This subdivision does not apply to a parcel of a district that is a designated hazardous substance site established under section 469.174, subdivision 16, or part of a hazardous substance subdistrict established under section 469.175, subdivision 7.

Subd. 6. **Action required.** If, after four years from the date of certification of the original net tax capacity of the tax increment financing district pursuant to section 469.177, no demolition, rehabilitation, or renovation of property or other site preparation, including qualified improvement of a street adjacent to a parcel but not installation of utility service including sewer or water systems, has been commenced on a parcel located within a tax increment financing district by the

authority or by the owner of the parcel in accordance with the tax increment financing plan, no additional tax increment may be taken from that parcel, and the original net tax capacity of that parcel shall be excluded from the original net tax capacity of the tax increment financing district. If the authority or the owner of the parcel subsequently commences demolition, rehabilitation, or renovation or other site preparation on that parcel including qualified improvement of a street adjacent to that parcel, in accordance with the tax increment financing plan, the authority shall certify to the county auditor that the activity has commenced, and the county auditor shall certify the net tax capacity thereof as most recently certified by the commissioner of revenue and add it to the original net tax capacity of the tax increment financing district. The county auditor must enforce the provisions of this subdivision. The authority must submit to the county auditor evidence that the required activity has taken place for each parcel in the district. The evidence for a parcel must be submitted by February 1 of the fifth year following the year in which the parcel was certified as included in the district. For purposes of this subdivision, qualified improvements of a street are limited to (1) construction or opening of a new street, (2) relocation of a street, and (3) substantial reconstruction or rebuilding of an existing street.

Subd. 7. **Parcels not includable in districts.** (a) The authority may request inclusion in a tax increment financing district and the county auditor may certify the original tax capacity of a parcel or a part of a parcel that qualified under the provisions of section 273.111 or 273.112 or chapter 473H for taxes payable in any of the five calendar years before the filing of the request for certification only for:

(1) a district in which 85 percent or more of the planned buildings and facilities (determined on the basis of square footage) are a qualified manufacturing facility or a qualified distribution facility or a combination of both; or

(2) a housing district.

(b)(1) A distribution facility means buildings and other improvements to real property that are used to conduct activities in at least each of the following categories:

(i) to store or warehouse tangible personal property;

(ii) to take orders for shipment, mailing, or delivery;

(iii) to prepare personal property for shipment, mailing, or delivery; and

(iv) to ship, mail, or deliver property.

(2) A manufacturing facility includes space used for manufacturing or producing tangible personal property, including processing resulting in the change in condition of the property, and space necessary for and related to the manufacturing activities.

(3) To be a qualified facility, the owner or operator of a manufacturing or distribution facility must agree to pay and pay 90 percent or more of the employees of the facility at a rate equal to or greater than 160 percent of the federal minimum wage for individuals over the age of 20.

History: *1987 c 291 s 177; 1988 c 719 art 5 s 84; art 12 s 15-18; 1989 c 277 art 2 s 64; 1989 c 329 art 13 s 20; 1Sp1989 c 1 art 2 s 11; art 14 s 9-11; 1990 c 604 art 7 s 15-19; 1991 c 291 art 10 s 6; 1993 c 375 art 14 s 10-14; 1995 c 264 art 5 s 22-25; 1Sp1995 c 3 art 16 s 13; 1996 c 471 art 7 s 14-16; 1997 c 231 art 10 s 6-9; 1998 c 389 art 11 s 6; 1999 c 243 art 10 s 2; 1999 c 248 s 20; 2000 c 490 art 11 s 25,26; 1Sp2001 c 5 art 15 s 10-15; 2003 c 127 art 10 s 10-13; 2003 c 130 s 12; 2005 c 152 art 2 s 12,13; 2006 c 259 art 10 s 4; 2008 c 154 art 9 s 6-9*

469.1761 INCOME REQUIREMENTS; HOUSING PROJECTS.

Subdivision 1. **Requirement imposed.** (a) In order for a tax increment financing district to qualify as a housing district:

(1) the income limitations provided in this section must be satisfied; and

(2) no more than 20 percent of the square footage of buildings that receive assistance from tax increments may consist of commercial, retail, or other nonresidential uses.

(b) The requirements imposed by this section apply to property receiving assistance financed with tax increments, including interest reduction, land transfers at less than the authority's cost of acquisition, utility service or connections, roads, parking facilities, or other subsidies. The provisions of this section do not apply to districts located in a targeted area as defined in section 462C.02, subdivision 9, clause (e).

(c) For purposes of the requirements of paragraph (a), the authority may elect to treat an addition to an existing structure as a separate building if:

(1) construction of the addition begins more than three years after construction of the existing structure was completed; and

(2) for an addition that does not meet the requirements of paragraph (a), clause (2), if it is treated as a separate building, the addition was not contemplated by the tax increment financing plan which includes the existing structure.

Subd. 2. **Owner occupied housing.** For owner occupied residential property, 95 percent of the housing units must be initially purchased and occupied by individuals whose family income is less than or equal to the income requirements for qualified mortgage bond projects under section 143(f) of the Internal Revenue Code.

Subd. 3. **Rental property.** For residential rental property, the property must satisfy the income requirements for a qualified residential rental project as defined in section 142(d) of the Internal Revenue Code. The requirements of this subdivision apply for the duration of the tax

increment financing district.

Subd. 4. **Noncompliance; enforcement.** Failure to comply with the requirements of this section is subject to section 469.1771.

History: *1Sp1989 c 1 art 14 s 12; 1996 c 471 art 7 s 17; 2000 c 490 art 11 s 27; 2005 c 152 art 2 s 14,15; 2008 c 154 art 9 s 10*

469.1762 ARBITRATION OF DISPUTES OVER COUNTY COSTS.

If the county and the authority or municipality are unable to agree on either (1) the need for or cost of road improvements under section 469.175, subdivision 1a, or (2) the amount of county administrative costs under section 469.176, subdivision 4h, and the county or municipality demands arbitration, the matter must be submitted to binding arbitration in accordance with sections 572.08 to 572.30 and the rules of the American Arbitration Association. Within 30 days after the demand for arbitration, the parties shall each select an arbitrator or agree upon a single arbitrator. If the parties each select an arbitrator, the two arbitrators shall select a third arbitrator within 45 days after the demand for arbitration. Each party shall pay the fees and expenses of the arbitrator it selected and the parties shall share equally the expenses of the third arbitrator or an arbitrator agreed upon mutually by the parties.

History: *1990 c 604 art 7 s 20*

469.1763 RESTRICTIONS ON POOLING; FIVE-YEAR LIMIT.

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meanings given.

(b) "Activities" means acquisition of property, clearing of land, site preparation, soils correction, removal of hazardous waste or pollution, installation of utilities, construction of public or private improvements, and other similar activities, but only to the extent that tax increment revenues may be spent for such purposes under other law.

(c) "Third party" means an entity other than (1) the person receiving the benefit of assistance financed with tax increments, or (2) the municipality or the development authority or other person substantially under the control of the municipality.

(d) "Revenues derived from tax increments paid by properties in the district" means only tax increment as defined in section 469.174, subdivision 25, clause (1), and does not include tax increment as defined in section 469.174, subdivision 25, clauses (2), (3), and (4).

Subd. 2. **Expenditures outside district.** (a) For each tax increment financing district, an amount equal to at least 75 percent of the total revenue derived from tax increments paid by properties in the district must be expended on activities in the district or to pay bonds, to the extent that the proceeds of the bonds were used to finance activities in the district or to pay, or

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

(b) In the case of a housing district, a housing project, as defined in section 469.174, subdivision 11, is an activity in the district.

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

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

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

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

(3) be used to:

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

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

(iii) make public improvements directly related to the housing.

(e) For a district created within a biotechnology and health sciences industry zone as defined in section 469.330, subdivision 6, or for an existing district located within such a zone,

tax increment derived from such a district may be expended outside of the district but within the zone only for expenditures required for the construction of public infrastructure necessary to support the activities of the zone, land acquisition, and other redevelopment costs as defined in section 469.176, subdivision 4j. These expenditures are considered as expenditures for activities within the district.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Subd. 5. **Credit enhanced bonds.** Except as otherwise provided in this section, revenues derived from tax increments may be used to pay debt service on credit enhanced bonds issued to finance activities outside of the district from which the revenues are derived, regardless of when the district is created. For purposes of this subdivision, "district" includes a district or a project area for which certification to collect increments was requested before August 1, 1979.

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. The municipality may transfer increments as provided by this subdivision without regard to whether the transfer or expenditure is authorized by the tax increment financing plan for the district from which the transfer is made. 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 collected or to be collected from properties located within the district that are available for the calendar year including amounts collected in prior years that are currently available; plus

(iii) total increments from properties located in other districts in the municipality including amounts collected in prior years 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.

The authority may compute the deficit amount under clause (1) only (without regard to the limit under clause (2)) if the authority makes an irrevocable commitment, by resolution, to use increments from the district to which increments are to be transferred and any transferred increments are only used to pay preexisting obligations and administrative expenses for the district that are required to be paid under section 469.176, subdivision 4h, paragraph (a).

(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 including amounts collected in prior years that are currently available 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) is an exception to the restrictions under section 469.176, subdivisions 4b, 4c, 4d, 4e, 4i, and 4j; the expenditure limits under section 469.176, subdivision 1c; 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

(2) 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 existence of a guarantee of obligations by the individual or entity that would receive the payment under this paragraph is disregarded in the determination of eligibility to pool under this subdivision. 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.

(g) For transfers of increments made in calendar year 2005 and later, the reduction in increments as a result of the elimination of the general education tax levy for purposes of paragraph (b), clause (2), for a taxes payable year equals the general education tax rate for the school district under Minnesota Statutes 2000, section 273.1382, subdivision 1, for taxes payable in 2001, multiplied by the captured tax capacity of the district for the current taxes payable year.

History: *1990 c 604 art 7 s 21; 1991 c 291 art 10 s 7-11; 1995 c 264 art 5 s 26,27; 1999 c 243 art 10 s 3; 2000 c 490 art 11 s 28; 1Sp2001 c 5 art 15 s 16; 2002 c 377 art 7 s 3; art 9 s 14; 2003 c 127 art 10 s 14-16; 1Sp2003 c 21 art 10 s 5,6; 2005 c 152 art 2 s 16,17; 2006 c 259 art 10 s 5-8; 2008 c 154 art 9 s 11*

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*

469.1765 GUARANTY FUND.

Subdivision 1. **Authority to establish.** An authority may establish and maintain a guaranty fund or funds. Money in the guaranty fund is available, under the terms and conditions that the development authority establishes, to indemnify or hold harmless a person from liability for remediation costs under a state or federal environmental law, regulation, ruling, order, or decision.

Subd. 2. **Eligible person.** The authority may agree to pledge money in the guaranty fund to indemnify a person whose liability arises out of use, ownership, occupancy, or financing of a property in the subdistrict or district.

Subd. 3. **Terms of indemnity.** The authority shall determine by resolution or by agreement with the person the terms and conditions under which money in the guaranty fund will be used to indemnify or hold harmless the person. The authority may not agree to indemnify a person from liability for contamination caused by the person. The maximum amount that may be paid from the guaranty fund with respect to properties within a subdistrict or district is one-half of

the remediation and removal costs. The maximum duration of an indemnification agreement is 25 years. An indemnification agreement is subject to any other restrictions provided by this section or other law.

Subd. 4. **Funding.** (a) Revenues derived from tax increments and any other money available to the authority may be deposited in the guaranty fund. The municipality may appropriate money to the authority to be deposited in the guaranty fund.

(b) If a guaranty fund is established that applies to property located in more than one tax increment financing district or subdistrict, the authority shall establish separate accounts for each subdistrict and district. The authority shall deposit all revenues derived from tax increments from a subdistrict or district in the account for that subdistrict or district, except the following amounts may be deposited in a general or other account: (1) the portion of revenue derived increments from a district, subject to section 469.1763, that may be spent on activities outside of the district, or (2) up to 25 percent of the revenues derived from increments from districts that are not subject to section 469.1763 and which may be deposited in the guaranty fund under the applicable tax increment financing plans. Investment earnings of money in an account must be credited to that account.

(c) The only money which may be pledged to indemnify or hold harmless a person from liability are amounts either in the account for the subdistrict or district in which the property out of which the liability arose is located or in an account not dedicated to a specific subdistrict or district.

Subd. 5. **Liability limited.** The authority and municipality is liable under a guaranty fund agreement only to the extent funds are available in the guaranty fund account or accounts available for the property.

Subd. 6. **Depository.** The authority shall provide for the guaranty fund to be held by or maintained with a financial institution or corporate fiduciary eligible for the deposit of public money or eligible to act as a trustee or fiduciary for obligations issued under chapter 475.

Subd. 7. **Final disposition of funds.** At the end of the period of the indemnification, all unencumbered money in the guaranty fund for the subdistrict or district must be treated as an excess increment and distributed under the provisions of section 469.176, subdivision 2, paragraph (a), clause (4). If the municipality contributed money to the account, other than revenues derived from increments, the authority may deduct and pay to the municipality a proportionate share of the unencumbered money in the account before the money is distributed as an excess increment. The proportionate share is determined based on the amount of contributions of nonincrements to the account relative to total contributions, including increments, to the account.

History: *1993 c 375 art 14 s 15*

469.1766 [Repealed, 2005 c 152 art 2 s 31]

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. The auditor shall certify the amount within 30 days after receipt of the request and sufficient information to identify the parcels included in the district. The certification relates to the taxes payable year as provided in subdivision 6.

(b) 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 the municipality approves 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) 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 market value is increased after approval of the plat under section 273.11, subdivision 14, 14a, or 14b, 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 or improvements described in section 469.174, subdivision 10, paragraph (e), that were 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), or by improvements under section 469.174, subdivision 10, paragraph (e), 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 or other improvements were demolished or removed, but applying the class rates for the current year.

(g) For a redevelopment district qualifying under section 469.174, subdivision 10, paragraph (a), clause (4), as a qualified disaster area, the auditor shall certify the value of the land as the original tax capacity for any parcel in the district that contains a building that suffered substantial damage as a result of the disaster or emergency.

Subd. 1a. **Original local tax rate.** At the time of the initial certification of the original net tax capacity for a tax increment financing district or a subdistrict, the county auditor shall certify the original local tax rate that applies to the district or subdistrict. The original local tax rate is the sum of all the local tax rates that apply to a property in the district or subdistrict. The local tax rate to be certified is the rate in effect for the same taxes payable year applicable to the tax capacity values certified as the district's or subdistrict's original tax capacity. The resulting tax capacity rate is the original local tax rate for the life of the district or subdistrict.

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.

Subd. 1c. **Original net tax capacity adjustments; presidential disaster area.** (a) The provisions of this subdivision apply to a district located in a disaster area, as described in section 273.1231, subdivision 3, paragraph (a), clause (1), and are effective for taxes payable in the first calendar year beginning at least four months after the date of the determination.

(b) For a district certified before the date of the disaster area determination as provided in section 273.1231, subdivision 3, paragraph (a), clause (1), upon the request of the municipality, the county auditor shall reduce the original net tax capacity of the district by the reduction in the net tax capacity of properties in the district that is attributable to the physical effects of the disaster, but not below zero. The assessor shall determine the amount of the reduction in market value that is attributable to the physical effects of the disaster to be used by the county auditor in computing the reduction in net tax capacity.

(c) For a district that does not qualify under paragraph (b) and for which the request for certification is made in the same calendar year as the disaster area determination, upon the request of the municipality, the assessor shall determine the reduction in market value of properties in the district that is attributable to the physical effects of the disaster. The county auditor shall use the reduced market value in certifying the original net tax capacity of the district.

Subd. 2. **Captured net tax capacity.** The county auditor shall certify the amount of the captured net tax capacity to the authority each year, together with the proportion that the captured net tax capacity bears to the total net tax capacity of the real property within the tax increment financing district and any subdistrict for that year.

(a) An authority may choose to retain any part or all of the captured net tax capacity for purposes of tax increment financing according to one of the following options:

(1) If the plan provides that all the captured net tax capacity is necessary to finance or otherwise make permissible expenditures under section 469.176, subdivision 4, the authority may retain the full captured net tax capacity.

(2) If the plan provides that only a portion of the captured net tax capacity is necessary to finance or otherwise make permissible expenditures under section 469.176, subdivision 4, only that portion shall be set aside and the remainder shall be distributed among the affected taxing districts by the county auditor.

(b) The portion of captured net tax capacity that an authority intends to use for purposes of tax increment financing must be clearly stated in the tax increment financing plan.

Subd. 3. **Tax increment, relationship to chapters 276A and 473F.** (a) Unless the

governing body elects pursuant to paragraph (b) the following method of computation shall apply to a district other than an economic development district for which the request for certification was made after June 30, 1997:

(1) The original net tax capacity and the current net tax capacity shall be determined before the application of the fiscal disparity provisions of chapter 276A or 473F. Where the original net tax capacity is equal to or greater than the current net tax capacity, there is no captured net tax capacity and no tax increment determination. Where the original net tax capacity is less than the current net tax capacity, the difference between the original net tax capacity and the current net tax capacity is the captured net tax capacity. This amount less any portion thereof which the authority has designated, in its tax increment financing plan, to share with the local taxing districts is the retained captured net tax capacity of the authority.

(2) The county auditor shall exclude the retained captured net tax capacity of the authority from the net tax capacity of the local taxing districts in determining local taxing district tax rates. The local tax rates so determined are to be extended against the retained captured net tax capacity of the authority as well as the net tax capacity of the local taxing districts. The tax generated by the extension of the lesser of (A) the local taxing district tax rates or (B) the original local tax rate to the retained captured net tax capacity of the authority is the tax increment of the authority.

(b) The following method of computation applies to any economic development district for which the request for certification was made after June 30, 1997, and to any other district for which the governing body, by resolution approving the tax increment financing plan pursuant to section 469.175, subdivision 3, elects:

(1) The original net tax capacity shall be determined before the application of the fiscal disparity provisions of chapter 276A or 473F. The current net tax capacity shall exclude any fiscal disparity commercial-industrial net tax capacity increase between the original year and the current year multiplied by the fiscal disparity ratio determined pursuant to section 276A.06, subdivision 7, or 473F.08, subdivision 6. Where the original net tax capacity is equal to or greater than the current net tax capacity, there is no captured net tax capacity and no tax increment determination. Where the original net tax capacity is less than the current net tax capacity, the difference between the original net tax capacity and the current net tax capacity is the captured net tax capacity. This amount less any portion thereof which the authority has designated, in its tax increment financing plan, to share with the local taxing districts is the retained captured net tax capacity of the authority.

(2) The county auditor shall exclude the retained captured net tax capacity of the authority from the net tax capacity of the local taxing districts in determining local taxing district tax rates. The local tax rates so determined are to be extended against the retained captured net tax capacity of the authority as well as the net tax capacity of the local taxing districts. The tax generated by

the extension of the lesser of (A) the local taxing district tax rates or (B) the original local tax rate to the retained captured net tax capacity of the authority is the tax increment of the authority.

(3) An election by the governing body pursuant to paragraph (b) shall be submitted to the county auditor by the authority at the time of the request for certification pursuant to subdivision 1.

(c) The method of computation of tax increment applied to a district pursuant to paragraph (a) or (b) shall remain the same for the duration of the district, except that the governing body may elect to change its election from the method of computation in paragraph (a) to the method in paragraph (b).

Subd. 4. **Prior planned improvements.** The authority shall, after diligent search, accompany its request for certification to the county auditor pursuant to subdivision 1, or its notice of district enlargement pursuant to section 469.175, subdivision 4, with a listing of all properties within the tax increment financing district or area of enlargement for which building permits have been issued during the 18 months immediately preceding approval of the tax increment financing plan by the municipality pursuant to section 469.175, subdivision 3. The county auditor shall increase the original net tax capacity of the district by the net tax capacity of each improvement for which a building permit was issued.

Subd. 5. **Tax increment account.** The tax increment received with respect to any district shall be segregated by the authority in a special account or accounts on its official books and records or as otherwise established by resolution of the authority to be held by a trustee or trustees for the benefit of holders of the bonds.

Subd. 6. **Request for certification of new tax increment financing district.** A request for certification of a new tax increment financing district pursuant to subdivision 1 or of a modification to an existing tax increment financing district pursuant to section 469.175, subdivision 4, received by the county auditor on or before June 30 of the calendar year shall be recognized by the county auditor in determining local tax rates for the current and subsequent levy years. Requests received by the county auditor after June 30 of the calendar year shall not be recognized by the county auditor in determining local tax rates for the current levy year but shall be recognized by the county auditor in determining local tax rates for subsequent levy years.

Subd. 7. **Property classification changes.** When any law governing the classification of real property and determining the percentage of market value to be assessed for ad valorem taxation purposes is amended, the increase or decrease in net tax capacity resulting therefrom shall be applied proportionately to original net tax capacity and captured net tax capacity of any tax increment financing district in each year thereafter. This subdivision applies to tax increment districts created pursuant to sections 469.174 to 469.178 or any prior tax increment law.

Subd. 8. **Assessment agreements.** An authority may enter into a written assessment

agreement with any person establishing a minimum market value of land, existing improvements, or improvements to be constructed in a district, if the property is owned or will be owned by the person. The minimum market value established by an assessment agreement may be fixed, or increase or decrease in later years from the initial minimum market value. If an agreement is fully executed before July 1 of an assessment year, the market value as provided under the agreement must be used by the county or local assessor as the taxable market value of the property for that assessment. Agreements executed on or after July 1 of an assessment year become effective for assessment purposes in the following assessment year. An assessment agreement terminates on the earliest of the date on which conditions in the assessment agreement for termination are satisfied, the termination date specified in the agreement, or the date when tax increment is no longer paid to the authority under section 469.176, subdivision 1. The assessment agreement shall be presented to the county assessor, or city assessor having the powers of the county assessor, of the jurisdiction in which the tax increment financing district and the property that is the subject of the agreement is located. The assessor shall review the plans and specifications for the improvements to be constructed, review the market value previously assigned to the land upon which the improvements are to be constructed and, so long as the minimum market value contained in the assessment agreement appears, in the judgment of the assessor, to be a reasonable estimate, shall execute the following certification upon the agreement:

> The undersigned assessor, being legally responsible for the assessment of the above described property, certifies that the market values assigned to the land and improvements are reasonable

The assessment agreement shall be filed for record and recorded in the office of the county recorder or the registrar of titles of each county where the real estate or any part thereof is situated. After the agreement becomes effective for assessment purposes, the assessor shall value the property under section 273.11, except that the market value assigned shall not be less than the minimum market value established by the assessment agreement. The assessor may assign a market value to the property in excess of the minimum market value established by the assessment agreement. The owner of the property may seek, through the exercise of administrative and legal remedies, a reduction in market value for property tax purposes, but no city assessor, county assessor, county auditor, board of review, board of equalization, commissioner of revenue, or court of this state shall grant a reduction of the market value below the minimum market value established by the assessment agreement during the term of the agreement filed of record regardless of actual market values which may result from incomplete construction of improvements, destruction, or diminution by any cause, insured or uninsured, except in the case of acquisition or reacquisition of the property by a public entity. Recording an assessment agreement constitutes notice of the agreement to anyone who acquires any interest

in the land or improvements that is subject to the assessment agreement, and the agreement is binding upon them.

An assessment agreement may be modified or terminated by mutual consent of the current parties to the agreement. Modification or termination of an assessment agreement must be approved by the governing body of the municipality. If the estimated market value for the property for the most recently available assessment is less than the minimum market value established by the assessment agreement for that or any later year and if bond counsel does not conclude that termination of the agreement is necessary to preserve the tax exempt status of outstanding bonds or refunding bonds to be issued, the modification or termination of the assessment agreement also must be approved by the governing bodies of the county and the school district. A document modifying or terminating an agreement, including records of the municipality, county, and school district approval, must be filed for record. The assessor's review and certification is not required if the document terminates an agreement. A change to an agreement not fully executed before July 1 of an assessment year is not effective for assessment purposes for that assessment year. If an assessment agreement has been modified or prematurely terminated, a person may seek a reduction in market value or tax through the exercise of any administrative or legal remedy. The remedy may not provide for reduction of the market value below the minimum provided under a modified assessment agreement that remains in effect. In no event may a reduction be sought for a year other than the current taxes payable year.

Subd. 9. **Distributions of excess taxes on captured net tax capacity.** (a) If the amount of tax paid on captured net tax capacity exceeds the amount of tax increment, the county auditor shall distribute the excess to the municipality, county, and school district as follows: each governmental unit's share of the excess equals

(1) the total amount of the excess for the tax increment financing district, multiplied by

(2) a fraction, the numerator of which is the current local tax rate of the governmental unit less the governmental unit's local tax rate for the year the original local tax rate for the district was certified (in no case may this amount be less than zero) and the denominator of which is the sum of the numerators for the municipality, county, and school district.

If the entire increase in the local tax rate is attributable to a taxing district, other than the municipality, county, or school district, then the excess must be distributed to the municipality, county, and school district in proportion to their respective local tax rates.

(b) The amounts distributed shall be deducted in computing the levy limits of the taxing district for the succeeding taxable year.

(c) In the case of distributions to a school district, the county auditor shall report amounts distributed to the commissioner of education in the same manner as provided for excess increments

under section 469.176, subdivision 2, and the distribution shall be deducted from the school district's state aid payments and levy limitation according to section 127A.49, subdivision 3.

Subd. 10. **Payment to school for referendum levy.** (a) The provisions of this subdivision apply to tax increment financing districts and projects for which certification was requested before May 1, 1988, that are located in a school district in which the voters have approved new local tax rates or an increase in local tax rates after the tax increment financing district was certified.

(b)(1) If there are no outstanding bonds on May 1, 1988, to which increment from the district is pledged, or if the referendum is approved after May 1, 1988, and there are no bonds outstanding at the time the referendum is approved, that were issued before May 1, 1988, the authority must annually pay to the school district an amount of increment equal to the increment that is attributable to the increase in the local tax rate under the referendum.

(2) If clause (1) does not apply, upon approval by a majority vote of the governing body of the municipality and the school board, the authority must pay to the school district an amount of increment equal to the increment that is attributable to the increase in the local tax rate under the referendum.

(c) The amounts of these increments may be expended and must be treated by the school district in the same manner as provided for the revenues derived from the referendum levy approved by the voters. The provisions of this subdivision apply to projects for which certification was requested before, on, and after August 1, 1979.

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 commissioner of finance 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.

Subd. 12. **Decertification of tax increment financing district.** The county auditor shall decertify a tax increment financing district when the earliest of the following times is reached:

(1) the applicable maximum duration limit under section 469.176, subdivisions 1a to 1g;

(2) the maximum duration limit, if any, provided by the municipality pursuant to section 469.176, subdivision 1;

(3) the time of decertification specified in section 469.1761, subdivision 4, if the commissioner of revenue issues an order of noncompliance and the maximum duration limit for economic development districts has been exceeded;

(4) upon completion of the required actions to allow decertification under section 469.1763, subdivision 4; or

(5) upon the later of receipt by the county auditor of a written request for decertification from the authority that requested certification of the original net tax capacity of the district or its successor or the decertification date specified in the request.

Subd. 13. **Correction of errors.** (a) If the county auditor, as a result of an error or mistake, decertifies a district, fails to certify a district, incorrectly certifies a district, or otherwise fails to correctly compute the amount of increment, the county auditor may undertake one or more of the following actions to correct the error or mistake:

(1) certify the original tax capacity of the affected parcels at the appropriate value for a later taxes payable year and extend the duration of the district, in whole or in part, to compensate;

(2) recertify the affected parcels and extend duration of the district, in whole or in part, to compensate;

(3) recertify or correct the original tax capacity rate for the district;

(4) adjust the tax rates of one or more of the taxing districts imposing taxes in the tax increment financing districts for one or more years to recoup amounts advanced by the county or other entity to the authority to replace the reduced increments; or

(5) take other appropriate action so that the amount of increment compensates for or offsets the error or mistake and correctly reflects application of the law.

(b) At least 30 days before exercising authority under this subdivision, the county auditor must notify the authority and the municipality, in writing, of the intent to do so, including supporting information to describe reason for the proposed action. The authority and municipality may waive the time requirement of this paragraph. If the city or the authority objects before expiration of the 30-day period, the matter must be submitted to the commissioner of revenue for a decision or resolution of the dispute. The commissioner of revenue shall consult with the Office of the State Auditor before making a decision.

(c) The county auditor must notify the commissioner of revenue and the Office of the State Auditor of corrections made under this subdivision. The notification must be made in the form

and manner and at the time prescribed by the commissioner. The commissioner shall incorporate the corrections in the tax increment financing district tax list supplement, as appropriate.

History: *1987 c 291 s 178; 1988 c 719 art 5 s 84; art 12 s 19-24; 1989 c 1 s 6; 1989 c 329 art 13 s 20; 1Sp1989 c 1 art 2 s 11; art 9 s 65; art 14 s 13; 1990 c 480 art 7 s 26; 1990 c 604 art 7 s 22-24; 1991 c 291 art 10 s 12,13; 1992 c 511 art 4 s 24; 1993 c 375 art 14 s 17,18; 1994 c 416 art 1 s 50; 1995 c 264 art 5 s 28-33; 1Sp1995 c 3 art 16 s 13; 1996 c 471 art 11 s 15; 1997 c 31 art 3 s 16; 1997 c 231 art 10 s 10,11; 1998 c 366 s 79; 1998 c 389 art 11 s 7; 1999 c 248 s 20; 2000 c 490 art 11 s 29; 1Sp2001 c 5 art 15 s 17-19; 1Sp2002 c 1 s 16; 2003 c 112 art 2 s 50; 2003 c 127 art 10 s 17,18; 2003 c 130 s 12; 1Sp2003 c 21 art 10 s 7; 2004 c 228 art 3 s 12; 2005 c 152 art 2 s 18; 1Sp2005 c 5 art 1 s 45; 2006 c 259 art 10 s 9; 2008 c 154 art 9 s 12; 2008 c 366 art 5 s 12; art 15 s 21*

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.

Subd. 2. **Collection of increment.** If an authority includes or retains a parcel of property in a tax increment financing district that does not qualify for inclusion or retention within the district, the authority must pay to the county auditor an amount of money equal to the increment collected from the property for the year or years. The property must be eliminated from the original and captured tax capacity of the district effective for the current property tax assessment year. This subdivision does not apply to a failure to decertify a district at the end of the duration limit specified in the tax increment financing plan.

Subd. 2a. **Suspension of distribution of tax increment.** (a) If an authority fails to make a disclosure or to submit a report containing the information required by section 469.175, subdivisions 5 and 6, regarding a tax increment financing district within the time provided in section 469.175, subdivisions 5 and 6, the state auditor shall mail to the authority a written notice that it or the municipality has failed to make the required disclosure or to submit a required report with respect to a particular district. The state auditor shall mail the notice on or before the third Tuesday of August of the year in which the disclosure or report was required to be made or submitted. The notice must describe the consequences of failing to disclose or submit a report as provided in paragraph (b). If the state auditor has not received a copy of a disclosure or a report described in this paragraph on or before the first day of October of the year in which the disclosure or report was required to be made or submitted, the state auditor shall mail a written notice to the county auditor to hold the distribution of tax increment from a particular district.

(b) Upon receiving written notice from the state auditor to hold the distribution of tax increment, the county auditor shall hold:

(1) 100 percent of the amount of tax increment that otherwise would be distributed, if the distribution is made after the first day of October but during the year in which the disclosure or report was required to be made or submitted; or

(2) 100 percent of the amount of tax increment that otherwise would be distributed, if the distribution is made after December 31 of the year in which the disclosure or report was required to be made or submitted.

(c) Upon receiving the copy of the disclosure and all of the reports described in paragraph (a) with respect to a district regarding which the state auditor has mailed to the county auditor a written notice to hold distribution of tax increment, the state auditor shall mail to the county auditor a written notice lifting the hold and authorizing the county auditor to distribute to the authority or municipality any tax increment that the county auditor had held pursuant to paragraph (b). The state auditor shall mail the written notice required by this paragraph within five working days after receiving the last outstanding item. The county auditor shall distribute the tax increment to the authority or municipality within 15 working days after receiving the written notice required by this paragraph.

(d) Notwithstanding any law to the contrary, any interest that accrues on tax increment while it is being held by the county auditor pursuant to paragraph (b) is not tax increment and may be retained by the county.

(e) For purposes of sections 469.176, subdivisions 1a to 1g, and 469.177, subdivision 11, tax increment being held by the county auditor pursuant to paragraph (b) is considered distributed to or received by the authority or municipality as of the time that it would have been distributed or received but for paragraph (b).

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.

Subd. 3. **Expenditure of increment.** If an authority expends revenues derived from tax increments, including the proceeds of tax increment bonds, (1) for a purpose that is not a permitted project under section 469.176, (2) for a purpose that is not permitted under section 469.176 for the district from which the increment was received, or (3) on activities outside of the geographic area in which the revenues may be expended under this chapter, the authority must pay to the county auditor an amount equal to the expenditures made in violation of the law.

Subd. 4. **Limitations.** (a) If the increments are pledged to repay bonds that were issued before the lawsuit was filed under this section, the damages under this section may not exceed the greater of (1) ten percent of the expenditures or revenues derived from increment, or (2) the amount of available revenues after paying debt services due on the bonds.

(b) The court may abate all or part of the amount if it determines the unauthorized action or failure to perform the required action was taken in good faith and the payment would work an undue hardship on the authority or municipality.

Subd. 4a. **Increments received after duration limit.** (a) This subdivision applies to payments made by the county auditor as tax increments that:

(1) were received by the authority before July 1, 2000, for a tax increment financing district after the maximum duration limit for the district; and

(2) were not permitted to be made under section 469.176, subdivision 1f, or any other provision of law as tax increments after the duration limit for the district.

(b) The authority or the municipality may enter an agreement with the county to repay these amounts in installments, without interest, over a period not to exceed three years.

(c) If a repayment agreement is entered or the authority or municipality otherwise voluntarily repays these amounts, then distributions of these repayments under subdivision 5 must be made to each of the taxing jurisdictions, including the municipality.

Subd. 5. **Disposition of payments.** If the authority does not have sufficient increments or other available money to make a payment required by this section, the municipality that approved the district must use any available money to make the payment including the levying of property taxes. Money received by the county auditor under this section must be distributed as excess increments under section 469.176, subdivision 2, paragraph (c), clause (4), except that if the county auditor receives the payment after (1) 60 days from a municipality's receipt of the state auditor's notification under subdivision 1, paragraph (c), of noncompliance requiring the payment, or (2) the commencement of an action by the county attorney to compel the payment, then no distributions may be made to the municipality that approved the tax increment financing district.

Subd. 6. **Application.** This section applies to increments collected from tax increment financing districts and projects for which certification was requested before, on, and after August 1, 1979.

Subd. 7. **Limitations on actions.** An action under subdivision 1, paragraph (a), contesting the validity of a determination by an authority under section 469.175, subdivision 3, must be commenced within the later of:

(1) 180 days after the municipality's approval under section 469.175, subdivision 3; or

(2) 90 days after the request for certification of the district is filed with the county auditor under section 469.177, subdivision 1.

History: *1990 c 604 art 7 s 25; 1991 c 291 art 10 s 14,15; 1995 c 264 art 5 s 34; 1998 c 389 art 11 s 8,9; 1999 c 243 art 10 s 5,6; 2000 c 490 art 11 s 30-32; 1Sp2001 c 5 art 15 s 20; 2003 c 127 art 10 s 19,20; 2005 c 152 art 2 s 19; 2006 c 259 art 10 s 10*

469.178 TAX INCREMENT BONDING.

Subdivision 1. **Generally.** Notwithstanding any other law, no bonds, payment for which tax increment is pledged, shall be issued in connection with any project for which tax increment financing has been undertaken except as authorized in this section. The proceeds from the bonds

shall be used only in accordance with section 469.176, subdivisions 4 to 4l, as if the proceeds were tax increment, except that a tax increment financing plan need not be adopted for any project for which tax increment financing has been undertaken prior to August 1, 1979, pursuant to laws not requiring a tax increment financing plan. The bonds are not included for purposes of computing the net debt of any municipality.

Subd. 2. **Municipality's general obligation bonds.** A municipality may issue general obligation bonds to finance any expenditure by the municipality or an authority the jurisdiction of which is wholly or partially within that municipality, pursuant to section 469.176, subdivision 4, in the same manner and subject only to the same conditions as those provided in chapter 475 for bonds financing improvement costs reimbursable from special assessments. Any pledge of tax increment, assessments, or other revenues for the payment of the principal of and interest on general obligation bonds issued under this subdivision, except when the authority and the municipality are the same, shall be made by written agreement by and between the authority and the municipality and filed with the county auditor. When the authority and the municipality are the same, the municipality may by covenant pledge tax increment, assessments, or other revenues for the payment of the principal of and interest on general obligation bonds issued under this subdivision and shall file the resolution containing the covenant with the county auditor. When tax increment, assessments, and other revenues are pledged, the estimated collections of the tax increment, assessments, and other revenues so pledged may be deducted from the taxes otherwise required to be levied before the issuance of the bonds under section 475.61, subdivision 1, or the collections thereof may be certified annually to reduce or cancel the initial tax levies in accordance with section 475.61, subdivision 1 or 3.

Subd. 3. **Authority's general obligation bonds.** When the authority and the municipality are not the same, an authority may, by resolution, authorize, issue, and sell its general obligation bonds to finance any expenditure which that authority is authorized to make by section 469.176, subdivision 4. The bonds of the authority shall be authorized by its resolution and shall mature as determined by resolution of the authority in accordance with sections 469.174 to 469.178. The bonds may be issued in one or more series and shall bear the date or dates, bear interest at the rate or rates, be in the denomination or denominations, be in the form, either coupon or registered, carry the conversion or registration privileges, have the rank or priority, be executed in the manner, be payable in medium of payment at the place or places, and be subject to the terms of redemption, with or without premium, as the resolution, its trust indenture, or mortgage may provide. The bonds may be sold at public or private sale at the price or prices the authority by resolution shall determine. Notwithstanding any provision of law to the contrary, the bonds shall be fully negotiable. In any suit or proceedings involving the validity of enforceability of any bonds of the authority or the security therefor, any bond reciting in substance that it has been issued by the authority to aid in financing a project shall be conclusively deemed to have

been issued for that purpose, and the tax increment financing district within the project shall be conclusively deemed to have been planned, located, and carried out in accordance with the purposes and provisions of sections 469.174 to 469.178. Neither the authority, nor any director, commissioner, council member, board member, officer, employee, or agent of the authority nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof. The bonds of the authority shall not be a debt of any municipality, the state, or any political subdivision thereof, and neither the municipality nor the state or any political subdivision thereof shall be liable thereon, nor shall the bonds be payable out of any funds or properties other than those of the authority and any tax increment and revenues of a tax increment financing district pledged therefor; the bonds shall state this on their face.

Subd. 4. **Authority's revenue bonds.** Notwithstanding any other law, an authority may, by resolution, authorize, issue, and sell revenue bonds payable solely from all or a portion of revenues, including tax increment revenues and assessments, derived from a tax increment financing district located wholly or partially within the municipality to finance any expenditure that the authority is authorized to make by section 469.176, subdivision 4. The bonds shall mature as determined by resolution of the authority in accordance with sections 469.174 to 469.178 and may be issued in one or more series. The bonds shall bear the date or dates, bear interest at the rate or rates, be in the denomination or denominations, be in the form, either coupon or registered, carry the conversion or registration privileges, have the rank or priority, be executed in the manner, be payable in medium of payment at the place or places, and be subject to the terms of redemption, with or without premium, as the resolution, its trust indenture, or mortgage may provide. The bonds may be sold at public or private sale at the price or prices the authority by resolution determines, and any provision of any law to the contrary notwithstanding, shall be fully negotiable. In any suit or proceedings involving the validity or enforceability of any bonds of the authority or the security therefor, any bond reciting in substance that it has been issued by the authority to aid in financing a project shall be conclusively deemed to have been issued for that purpose, and the tax increment financing district within the project shall be conclusively deemed to have been planned, located, and carried out in accordance with the purposes and provisions of sections 469.174 to 469.178. Neither the authority, nor any director, commissioner, council member, board member, officer, employee, or agent of the authority nor any person executing the bonds shall be liable personally on the bonds by reason of their issuance. The bonds may be further secured by a pledge and mortgage of all or any portion of the district in aid of which the bonds are issued and by covenants the authority deems by resolution to be necessary and proper to secure payment of the bonds. The bonds shall not be payable from nor charged upon any funds other than the revenues and property pledged or mortgaged to the payment thereof, nor shall the issuing authority be subject to any liability thereon or have the powers to obligate itself to pay or pay the bonds from funds other than the revenues and properties pledged and mortgaged, and no holder or

holders of the bonds shall ever have the right to compel any exercise of any taxing power of the issuing authority or any other public body, other than as is permitted or required under sections 469.174 to 469.178 and pledged hereunder, to pay the principal of or interest on the bonds, nor to enforce payment thereof against any property of the authority or other public body other than that expressly pledged or mortgaged for the payment thereof; the bonds shall state this on their face.

Subd. 5. **Temporary bonds.** (a) In anticipation of the issuance of bonds pursuant to subdivision 2, 3, or 4, the authority or municipality may by resolution issue and sell temporary bonds pursuant to subdivision 2, 3, or 4, maturing within three years from their date of issue, to pay any part or all of the cost of a project. To the extent that the principal of and interest on the temporary bonds cannot be paid when due from receipts of tax increment, assessments, or other funds appropriated for the purpose, they shall be paid from the proceeds of long-term bonds or additional temporary bonds that the authority or municipality offers for sale in advance of the maturity date of the temporary bonds, but the indebtedness funded by an issue of temporary bonds shall not be extended by the issue of additional temporary bonds for more than six years from the date of the first issue. Long-term bonds may be issued pursuant to subdivision 2, 3, or 4 without regard to whether the temporary bonds were issued pursuant to subdivision 2, 3, or 4. If general obligation temporary bonds are issued pursuant to subdivision 2, proceeds of long-term bonds or additional temporary bonds not yet sold may be treated as pledged revenues, in reduction of the tax otherwise required by section 475.61 to be levied prior to delivery of the obligations. Subject to the six-year maturity limitation contained above, but without regard to the requirement of section 475.58, if any temporary bonds are not paid in full at maturity, in addition to any other remedy authorized or permitted by law, the holders may demand that the authority or municipality issue pursuant to subdivision 2, 3, or 4 as the temporary bonds and in exchange for the temporary bonds, at par, replacement temporary bonds dated as of the date of the replaced temporary bonds, maturing within one year from the date of the replacement temporary bonds and earning interest at the rate set forth in the resolution authorizing the issuance of the replaced temporary bonds, provided that the rate shall not exceed the maximum rate permitted by law at the date of issue of the replaced temporary bonds. The authority or municipality shall do so upon demand.

(b) Funds of a municipality may be invested in its temporary bonds in accordance with the provisions of section 118A.04, and may be purchased upon their initial issue, but shall be purchased only from funds which the governing body of the municipality determines will not be required for other purposes before the maturity date, and shall be resold before maturity only in case of emergency. If purchased from a debt service fund securing other bonds, the holders of those bonds may enforce the municipality's obligations on the temporary bonds in the same manner as if they held the temporary bonds.

Subd. 6. **When bond allocation act applies.** Sections 474A.01 to 474A.21 apply to any

issuance of obligations under this section that are subject to limitation under a federal tax law as defined in section 474A.02, subdivision 8.

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 authorized, by resolution of the governing body or of the authority, whichever has jurisdiction over the fund from which the advance or loan is made, before money is transferred, advanced, or spent, whichever is earliest. The resolution may generally grant to the authority the power to make interfund loans under one or more tax increment financing plans or for one or more districts. 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 270C.40 or 549.09 as of the date the loan or advance is made, unless the written agreement states that the maximum interest rate will fluctuate as the interest rates specified under section 270C.40 or 549.09 are from time to time adjusted.

History: *1987 c 291 s 179; 1996 c 399 art 2 s 12; 2000 c 260 s 66; 1Sp2001 c 5 art 15 s 21; 2003 c 127 art 10 s 21; 2005 c 151 art 2 s 17; 2005 c 152 art 2 s 20; 2006 c 259 art 9 s 9; 2008 c 154 art 9 s 13*

469.1781 REQUIRED SPENDING FOR NEIGHBORHOOD REVITALIZATION.

(a) The provisions of this section apply to a city of the first class if the following conditions are met:

(1) the city refunded bonds and revenues, derived from increment from a district for which certification was requested before August 1, 1979, were pledged to pay the bonds;

(2) the refunding bonds were issued after April 1, 1988, and before April 1, 1990;

(3) the refunded bonds' obligations were due and payable in full by the calendar year 2002 and the refunding bonds' obligations are payable, in whole or part, during the calendar years 2001 through 2009; and

(4) the city had in place during 1989 an ordinance providing for excess increments to be distributed under section 469.176, subdivision 2, paragraph (a), clause (4), and the city modified the ordinance to eliminate all or part of the distributions of excess increments.

(b) For calendar years 1990 through 2001, in each year the city must expend for a neighborhood revitalization program, as established under section 469.1831, an amount of revenues derived from tax increments equal to at least:

(1) the amount of the additional principal and interest payments that would have been due for the year on the refunded bonds, if the bonds had not been refunded; and

(2) the amount of money which would have been distributed as excess increments under the city ordinance had it not been modified.

History: *1990 c 604 art 7 s 26*

469.1782 SPECIAL LAW PROVISIONS.

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

Subd. 2. **Local approval of special laws.** (a) If a special law allows an extension of the duration limit of an existing tax increment financing district under section 469.176 or allows establishment of a new district with a longer duration limit than that permitted by general law, the "affected local government units," for purposes of section 645.021 and article XII, section 2, of the Minnesota Constitution, include the city or town, the school district, and the county in which the tax increment district is located. The town board may act to approve the special law.

(b) The chief clerical officer of the municipality must, as soon after the affected local units have approved the special law allowing an extension, file with the secretary of state a certificate stating the essential facts necessary to valid approval, including a copy of each of the resolutions of approval by the city or town, the school district, and the county. The attorney general shall prescribe the form of the certificate and the secretary of state shall furnish copies. If the municipality fails to file a certificate of approval before the first day of the next regular session of the legislature, the extension of the duration is deemed to be disapproved, unless the special law allows a longer period for approval. If the law contains other provisions besides an extension of the duration and the municipality otherwise complies with section 645.021, the rest of the law takes effect.

History: *1995 c 264 art 5 s 35; 1998 c 397 art 11 s 3*

469.179 EXISTING PROJECTS; EFFECTIVE DATES OF AMENDMENTS.

Subdivision 1. **Exemption.** The provisions of sections 469.174 to 469.178 shall not affect any project for which tax increment certification was requested pursuant to law prior to August 1, 1979, or any project carried on by an authority pursuant to section 469.033, subdivision 5, with respect to which the governing body has by resolution designated properties for inclusion in the district prior to August 1, 1979, except:

(1) as otherwise expressly provided in sections 469.174 to 469.178; or

(2) as an authority elects to proceed with an existing district, under the provisions of sections 469.174 to 469.178; or

(3) as provided in subdivision 2; or

(4) section 469.177, subdivision 3, paragraph (b), shall apply to all development districts created pursuant to Minnesota Statutes 1978, chapter 472A, or any special law, prior to August 1, 1979.

Subd. 2. **Application to existing districts.** If the development or redevelopment activity within the project or district of a tax increment financing project certified prior to August 1, 1979, is extended beyond the scope of activity set forth in the district's redevelopment plan under chapter 462 or 472A, if applicable, after May 1, 1988, the authority must with regard to the new activity conform to the provisions of sections 469.174 to 469.178 with the following exceptions.

(a) Section 469.175, subdivision 3, paragraph (b), clauses (1) and (5), shall not apply. Furthermore, the provisions of section 473F.02, subdivision 3, shall continue to apply to the entire district, if applicable.

(b) Section 469.177, subdivision 3, shall not apply.

Subd. 3. **Act amendments; effective date presumptions.** (a) This subdivision establishes presumptions as to the effective dates of acts amending sections 469.174 to 469.178. These rules supplement the rules under section 645.02. The rules in paragraphs (b) and (c) apply unless the act specifies a different intent as to the time of its application.

(b) If the act is effective on a date either specified by the act itself or under section 645.02, the act is effective for districts for which requests for certification are made after the specified date.

(c) If the act is effective for districts for which requests for certification are made after a specified date either under paragraph (b) or the terms of the act, the following rules apply:

(1) in the case of a district where the first request for certification is made after the specified date, the act applies in full and to the entire area of the district; and

(2) in the case of a district where the first request for certification was made on or before the specified date, the act applies only to the area of the district added by tax increment financing plan amendments for which certification is requested after the specified date.

History: *1987 c 291 s 180; 1988 c 719 art 12 s 25; 1991 c 291 art 10 s 16*

469.1791 TAX INCREMENT FINANCING SPECIAL TAXING DISTRICT.

Subdivision 1. **Definitions.** (a) As used in this section, the terms defined in this subdivision have the meanings given them.

(b) "City" means a city containing a tax increment financing district, the request for certification of which was made before June 2, 1997.

(c) "Enabling ordinance" means an ordinance adopted by a city council establishing a special taxing district.

(d) "Special taxing district" means all or any portion of the property located within a tax increment financing district, the request for certification of which was made before June 2, 1997.

(e) "Development or redevelopment services" has the meaning given in the city's enabling ordinance, and may include any services or expenditures the city or its economic development authority or housing and redevelopment authority or port authority may provide or incur under sections 469.001 to 469.1081 and 469.124 to 469.134, including, without limitation, amounts necessary to pay the principal of or interest on bonds issued by the city or its economic development authority or housing and redevelopment authority or port authority under section 469.178, for the tax increment financing districts contained within the special taxing district or projects to be funded with increments from tax increment financing districts contained within the special taxing district.

(f) "Preexisting obligations" means bonds issued and sold before June 2, 1997, and binding contracts entered into before June 2, 1997, to the extent that the bonds and contracts are secured by a pledge of increments from the tax increment financing district contained within the special taxing district.

Subd. 2. **Establishment of special taxing district.** The governing body of a city may adopt an ordinance establishing a special taxing district, if the conditions under subdivision 3 are satisfied. The ordinance must describe with particularity the property to be included in the district and the development or redevelopment services to be provided in the district. Only property that is subject to an assessment agreement or development agreement with the city or its economic development authority, housing and redevelopment authority, or port authority, as of the date of adoption of the ordinance, may be included within the special taxing district and be subject to the tax imposed by the city on the district. The ordinance may not be adopted until after a public hearing has been held on the question. Notice of the hearing must include the time and place of the hearing, a map showing the boundaries of the proposed district, and a statement that all persons owning property in the proposed district that would be subject to a special tax will be given the opportunity to be heard at the hearing. Within 30 days after adoption of the ordinance under this subdivision, the governing body shall send a copy of the ordinance to the commissioner of revenue.

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 housing district.

(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.

Subd. 4. **Notice; hearing.** Notice of the hearing must be given by publication in the official newspaper of the city at least ten but not more than 30 days prior to the hearing. Not less than ten days before the hearing, notice must also be mailed to the owner of each parcel within the area proposed to be included within the district. For the purpose of giving mailed notice, owners are those shown on the records of the county auditor. At the public hearing a person affected by the proposed district may testify on any issues relevant to the proposed district. The hearing may be adjourned from time to time and the ordinance establishing the district may be adopted at any time within six months after the date of the conclusion of the hearing by a vote of the majority of the governing body of the city.

Subd. 5. **Benefit; objection.** Before the ordinance is adopted or at the hearing at which it is to be adopted, any affected landowner may file a written objection with the city clerk asserting that the landowner's property should not be included in the district or should not be subject to a special tax and objecting to:

(1) the fact that the landowner's property is not subject to an assessment agreement or development agreement; or

(2) the fact that neither the landowner's property nor its use is benefited by the development or redevelopment services provided.

The governing body shall make a determination on the objection within 30 days of its filing. Pending its determination, the governing body may delay adoption of the ordinance or it may adopt the ordinance with a reservation that the landowner's property may be excluded from the district or district special taxes when a determination is made.

Subd. 6. **Appeal to district court.** Within 30 days after the determination of the objection, any person aggrieved may appeal to the district court by serving a notice upon the mayor or city

clerk. No appeal may be filed if the aggrieved person failed to timely file a written objection with the city clerk under subdivision 5, and the failure was not due to reasonable cause. The notice must be filed with the court administrator of the district court within ten days after its service. The city clerk shall furnish the appellant a certified copy of the findings and determination of the governing body. The court may affirm the action objected to or, if the appellant's objections have merit, modify or cancel it. If the appellant does not prevail upon the appeal, the costs incurred are taxed to the appellant by the court and judgment entered for them. All objections are deemed waived unless presented on appeal.

Subd. 7. **Modification of special taxing district.** The boundaries of the special taxing district may be enlarged or reduced under the procedures for establishment of the district under subdivision 2. Property added to the district is subject to the special tax imposed within the district after the property becomes a part of the district.

Subd. 8. **Special tax authority.** A city may impose a special tax within a special taxing district that is reasonably related to the development or redevelopment services provided. The tax may be imposed at a rate or amount sufficient to produce the revenues required to provide the development or redevelopment services within the project area subject to limits under subdivision 9. The special tax is payable only in a year in which the assessment or development agreement for the property subject to the tax remains in effect for that taxes payable year.

Subd. 9. **Limits on tax.** (a) The maximum levy for any year may not exceed the least of:

(1) the amount specified in the assessment agreement or development agreement;

(2) the amount needed to pay preexisting obligations, less available increments including increments transferred from other districts; and

(3) the amount of the general ad valorem tax that would have been paid by the captured net tax capacity of the tax increment financing district, if the property tax class rates for taxes payable in 1997 were in effect, less the amount of the general ad valorem tax imposed for the payable year on the captured net tax capacity.

(b) If the city uses the proceeds of a tax imposed under this section to pay preexisting obligations secured by increments from more than one tax increment financing district, the city must establish a special taxing district in each of the districts and impose a uniform rate upon all the districts. The maximum limits under paragraph (a) must be calculated in aggregate for all of the affected districts.

(c) If neither the assessment agreement nor the development agreement specify a tax amount but state an agreed market value for the property, the amount specified for purposes of paragraph (a), clause (1), is the market value of the property under the agreement multiplied by

the class rate for taxes payable in 1997 and multiplied by the sum of the ad valorem tax rates for all the taxing jurisdictions.

Subd. 10. **Limits under other law.** The tax imposed under this section is not included in the calculation of levies or limits imposed under law or charter. Section 275.065 does not apply to any tax imposed under this section. The tax proceeds are subject to the restrictions imposed by law on revenues derived from tax increments and may only be spent for the purposes for which increments may be spent.

Subd. 11. **Collection and administration.** The special tax must be imposed on the net tax capacity of the taxable property located in the geographic area described in the ordinance. Taxable net tax capacity must be determined without regard to captured or original net tax capacity under section 469.177 or to the distribution or contribution value under section 473F.08. The city shall compute the amount of the tax for each parcel subject to tax and certify the amount to the county auditor by the date provided in section 429.061, subdivision 3, for the annual certification of special assessment installments. The special tax is payable and must be collected at the same time and in the same manner as provided for payment and collection of ad valorem taxes. Special taxes not paid on or before the applicable due date are subject to the same penalty and interest as ad valorem tax amounts not paid by the respective due date. The due date for the special tax is the due date for the real property tax for the property on which the special tax is imposed.

History: *1998 c 389 art 11 s 10; 1999 c 243 art 10 s 7; 2003 c 127 art 10 s 22; 2008 c 154 art 9 s 14*

469.1792 SPECIAL DEFICIT AUTHORITY.

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

(1) 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

(2)(i) the development authority has a binding contract, entered into before August 1, 2001, 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

(ii) the authority is unable to pay the full amount under the contract from the pledged increments or other increments from the district that would have been due if the class rate changes or elimination of the state-determined general education property tax levy or both had not been made under Laws 2001, First Special Session chapter 5.

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

(ii) was issued to refinance an obligation under item (i), if the refinancing does not increase the present value of the debt service; and

(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 or if the district is an economic development district for which the request for certification was made after June 30, 1997.

(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 3. To be effective for taxes payable in the following year, the resolution must be adopted and the county auditor must be notified of the adoption on or before July 1.

History: *1Sp2001 c 5 art 15 s 22; 2002 c 377 art 7 s 4; 2003 c 127 art 5 s 43; art 10 s 23-25*

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*

469.1794 DURATION EXTENSION TO OFFSET DEFICITS.

Subdivision 1. **Authority.** Subject to the conditions and limitations imposed by this section, an authority may, by resolution, extend the duration limit under section 469.176, subdivision

1b, 1c, 1e, or 1g, that applies to a preexisting district by up to the maximum number of years permitted under subdivision 5, plus any amount authorized by the commissioner of revenue under subdivision 6.

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

(b) "Extended district" means a tax increment financing district whose duration limit is extended under this section.

(c) "Preexisting district" has the meaning given in section 469.1792, subdivision 2.

(d) "Preexisting obligation" has the meaning given in section 469.1792, subdivision 2.

(e) "Qualifying obligation" means:

(1) a preexisting obligation that is:

(i) a general obligation bond of the municipality;

(ii) a general obligation bond of the authority;

(iii) a revenue bond of the authority to which other revenues or money of the authority in addition to tax increments are pledged to pay;

(iv) an interfund loan, including an advance or payment made by the municipality or authority after June 1, 2002, to pay an obligation listed in items (i) to (iii);

(v) an obligation assumed by a developer before January 1, 2001, to repay a general obligation bond issued by a municipality to fund cleanup and development activities, if the developer assumed the obligation more than five years after the issuance of the bonds; or

(2) a bond issued to refinance a preexisting obligation under clause (1).

Subd. 3. **Preconditions.** Before an authority may extend the duration of district under this section, the following conditions must be met with regard to the district:

(1) the original local tax rate under section 469.177, subdivision 1a, does not apply under an election made under section 469.1792, subdivision 3, or under other operation of law;

(2) for a district in the metropolitan area or taconite tax relief area, the fiscal disparities contribution is computed under section 469.177, subdivision 3, paragraph (a);

(3) the municipality has transferred any available increments in other districts to pay qualified obligations of the district or other districts in the municipality under section 469.1763, subdivision 6; and

(4) the authority finds that, taking into account all of the increments that are available to pay qualifying obligations for the district, the increments from the district will be insufficient to pay the amount of qualifying obligations and that the insufficiency is a result of (i) the changes in the

class rates and (ii) elimination of the state-determined general education property tax levy under Laws 2001, First Special Session chapter 5.

Subd. 4. **Notice; hearing; and approvals.** The authority may extend the duration of a district under this section only after the municipality has approved the extension after providing public notice and holding a hearing in the manner provided under section 469.175, subdivision 3.

Subd. 5. **Maximum extension.** (a) The maximum extension for a district under this subdivision equals the lesser of:

(1) four years; or

(2) the tax reform percentage for the district, determined under paragraph (b), multiplied by the remaining duration of the district rounded to the nearest whole number. Fractions in excess of one-third are rounded up.

(b) The tax reform percentage for the district, as estimated by the county auditor, equals:

(1)(i) the total taxes paid by the original tax capacity for the district for taxes payable in 2001, minus

(ii) the average of the total taxes paid by the original tax capacity for the district for taxes payable in 2002 and in 2003, divided by

(2) the total taxes paid by the original tax capacity for the district for taxes payable in 2001.

(c) In the resolution approving the extension, the municipality may elect to treat all preexisting obligations as qualified obligations for purposes of this section. If the municipality makes an election under this paragraph, the maximum duration is reduced by one-half of the amount otherwise permitted under paragraph (a).

(d) The remaining duration of a district is the number of calendar years, beginning after December 31, 2001, in which the district may collect increment under its duration limit under section 469.176, subdivision 1b, 1c, 1e, or 1g, or a special law approved before January 1, 2002, as applicable.

(e) For purposes of this subdivision, "taxes" exclude taxes levied against market value, rather than tax capacity, and the state general tax under section 275.025.

Subd. 6. **Commissioner authority.** (a) If the municipality determines that the extension permitted under subdivision 5 will not provide sufficient revenue to pay in full the amount of qualifying obligations, the municipality may apply to the commissioner of revenue for an additional duration extension. The commissioner may authorize an extension of the duration of the district of up to two years after determining that:

(1) the insufficiency of revenues to pay the qualifying obligations, which will be offset by the additional extension of the duration limit, result from (i) the changes in the class rates and (ii)

elimination of the state-determined general education property tax levy under Laws 2001, First Special Session chapter 5;

(2) the municipality has or is transferring all available increments from other preexisting districts and after August 1, 2001, has not entered into new obligations or authorized new spending that reduced the amount of those increments that are available for transfer to pay qualifying obligations; and

(3) increases in increments over the term of the district are unlikely to eliminate the insufficiency.

(b) The commissioner may:

(1) establish the form of and time for applications under this subdivision; and

(2) require the municipality to provide the information that the commissioner determines is necessary or useful in evaluating the application.

(c) This subdivision does not apply to a district if the authority has made an election under subdivision 5, paragraph (c).

Subd. 7. **Limits on use of increments.** (a) Tax increments of an extended district may only be used to pay preexisting obligations of the district and administrative expenses, effective upon the final required approval of the extension under this section. All tax increments that are attributable to an extension of the duration of a district under this section must be used only to pay qualified obligations of the district. If increments from a district subject to this subdivision are pledged to pay preexisting obligations that are not qualified obligations, increments received under the duration limit, determined without regard to this section, must be used to pay qualified obligations and preexisting obligations that are not qualified obligations in proportion to their relative shares of all payments due on all preexisting obligations.

(b) If the authority elects to extend the duration of a district under this section and if increments from one or more other districts are pledged to pay preexisting obligations of the extended district, increments from all of the districts may only be used to pay preexisting obligations and administrative expenses.

Subd. 8. **Decertification.** An extended district must be decertified at the end of the first calendar year when sufficient increments have been received to pay the qualified obligations of the extended district. Any remaining unspent increments must be distributed as excess increments under section 469.176, subdivision 2, paragraph (c), clause (4).

History: *1Sp2003 c 21 art 10 s 8*

469.1799 TIF GRANTS; APPROPRIATIONS.

Subdivision 1. [Repealed, 2002 c 220 art 13 s 8 subd 2]

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. [Repealed, 2002 c 220 art 13 s 8 subd 2]

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

MISCELLANEOUS ECONOMIC DEVELOPMENT POWERS

469.180 DEVELOPMENT PACTS WITH ENTITIES OF OTHER STATES.

Subdivision 1. **Agreements authorized.** A county or two or more adjacent counties may make an agreement with contiguous political subdivisions of an adjacent state, with nonprofit corporations, or both, to improve the economic development of the area.

Subd. 2. **Tax levies.** Notwithstanding any law, the county board of any county may appropriate from the general revenue fund a sum not to exceed a county levy of 0.00080 percent of taxable market value to carry out the purposes of this section.

History: *1987 c 291 s 181; 1988 c 719 art 5 s 84; 1989 c 277 art 4 s 65*

469.181 [Repealed, 1997 c 231 art 2 s 70]

469.1811 PROPERTY TAX EXEMPT; AGRICULTURAL PROCESSING FACILITY.

Subdivision 1. **Definitions.** For purposes of this section:

(1) "Agricultural processing facility" means land, buildings, structures, fixtures, and improvements used or operated primarily for the processing or production of marketable products from agricultural crops, including waste and residues from agricultural crops, but not including livestock or livestock products, poultry or poultry products, or wood or wood products. As used in this subdivision, land is limited to land on which the buildings, structures, fixtures, and improvements are situated and the immediately surrounding land used for storage or other functions directly related to the processing or production, not including land used for the growing of agricultural crops.

(2) "Qualifying property" means taxable property: (i) that consists of an agricultural processing facility; and (ii) for which the agricultural processing facility project costs exceed $100,000,000.

Subd. 2. **City may exempt.** The governing body of a home rule or statutory city may by resolution exempt qualifying property from property taxation. The exemption may include the entire market value of the qualifying property as determined by the assessor, including the land and any improvements existing at the time the exemption is granted, any increases in the value of the land and improvements during the duration of the exemption, and the value of any improvements constructed or attached during the exemption period. The property tax exemption granted by the city may not exceed a ten-year period beginning with taxes payable the year following the year the exemption is granted. At the expiration of the exemption period, the facility shall be assessed and pay property taxes as otherwise provided by law.

Subd. 3. **Application; hearing.** A person proposing to construct an agricultural processing facility may apply for a property tax exemption to the city clerk of the city where the facility is proposed to be located. The application must contain a plan that includes a legal description of the real estate on which the exemption is sought, a description of the proposed facility, a detailed estimate of acquisition and construction costs, a construction time schedule, and any other information required by the city.

Before approving a tax exemption pursuant to this section, the governing body of the city must hold a public hearing. The municipal clerk or auditor shall publish a notice in the official newspaper of the time and place of a hearing to be held by the governing body on the application, not less than 30 days after the notice is published. The notice shall state that the applicant, local government officials, and any taxpayer of the municipality may be heard or may present their views in writing at or before the hearing. The hearing may be adjourned from time to time, but the governing body shall take action on the application by resolution within 30 days after the hearing ends. If disapproved, the reasons shall be set forth in the resolution. If the application for a tax exemption is approved, the city clerk shall forward a copy of the resolution approving the tax exemption to the county assessor who shall exempt the property from taxation under the terms of and for the period contained in the resolution.

Subd. 4. **Conditions; revocation.** (a) The governing body of the city may set conditions to its approval or continuation of a tax exemption under this section. The conditions may include construction specifications; time limits for construction; traffic, parking, safety, or environmental requirements; requirements as to the type and number of jobs to be created; valuation or assessment requirements after the exemption expires; or any other conditions reasonably required by the city to safeguard the public welfare.

(b) If the city proposes to revoke its approval of a tax exemption granted under this section, it must notify the owner of the property and give the person an opportunity to be heard. The city must give the person 30 days' notice before holding the hearing. A revocation by the city must be made by resolution and must state the findings on which the revocation is based.

History: *1994 c 587 art 5 s 22*

469.1812 DEFINITIONS.

Subdivision 1. **Scope.** For purposes of sections 469.1812 to 469.1815, the following terms have the meanings given.

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.

Subd. 3. **Municipality.** "Municipality" means a statutory or home rule charter city or a town.

Subd. 4. **Political subdivision or subdivision.** "Political subdivision" or "subdivision" means a statutory or home rule charter city, town, school district, or county.

History: *1997 c 231 art 2 s 45; 1999 c 248 s 19; 1Sp2001 c 5 art 15 s 25*

469.1813 ABATEMENT AUTHORITY.

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

(1) 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 or intends the abatement to phase in a property tax increase, as provided in clause (2)(vii); and

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

(i) increase or preserve tax base;

(ii) provide employment opportunities in the political subdivision;

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

(iv) help redevelop or renew blighted areas;

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

(vi) finance or provide public infrastructure;

(vii) phase in a property tax increase on the parcel resulting from an increase of 50 percent or more in one year on the estimated market value of the parcel, other than increase attributable to improvement of the parcel; or

(viii) stabilize the tax base through equalization of property tax revenues for a specified period of time with respect to a taxpayer whose real and personal property is subject to valuation under Minnesota Rules, chapter 8100.

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 resolution. 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.

Subd. 4. **Property located in tax increment financing districts.** The governing body of a political subdivision may not enter into a property tax abatement agreement under sections 469.1812 to 469.1815 that provides for abatement of taxes on a parcel, if the abatement will occur while the parcel is located in a tax increment financing district.

Subd. 5. **Notice and public hearing.** (a) The governing body of the political subdivision may approve an abatement under sections 469.1812 to 469.1815 only after holding a public

hearing on the abatement.

(b) Notice of the hearing must be published in a newspaper of general circulation in the political subdivision at least once more than ten days but less than 30 days before the hearing. The newspaper must be one of general interest and readership in the community, and not one of limited subject matter. The newspaper must be published at least once per week. The notice must indicate that the governing body will consider granting a property tax abatement, identify the property or properties for which an abatement is under consideration, and the total estimated amount of the abatement.

Subd. 6. **Duration limit.** (a) A political subdivision may grant an abatement for a period no longer than 15 years, except as provided under paragraph (b). The abatement period commences in the first year in which the abatement granted is either paid or retained in accordance with section 469.1815, subdivision 2. 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. Economic abatement agreements for real and personal property subject to valuation under Minnesota Rules, chapter 8100, are not subject to this prohibition and may be granted successively.

(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 20 years. If the political subdivision which declined to grant an abatement later grants an abatement for the parcel, the 20-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).

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.

Subd. 6b. **Extended duration limit.** (a) Notwithstanding the provisions of subdivision 6, a political subdivision may grant an abatement for a period of up to 20 years, if the abatement

is for a qualified business.

(b) To be a qualified business for purposes of this subdivision, at least 50 percent of the payroll of the operations of the business that qualify for the abatement must be for employees engaged in one of the following lines of business or any combination of them:

(1) manufacturing;

(2) agricultural processing;

(3) mining;

(4) research and development;

(5) warehousing; or

(6) qualified high technology.

Alternatively, a qualified business also includes a taxpayer whose real and personal property is subject to valuation under Minnesota Rules, chapter 8100.

(c)(1) "Manufacturing" means the material staging and production of tangible personal property by procedures commonly regarded as manufacturing, processing, fabrication, or assembling which changes some existing material into new shapes, new qualities, or new combinations.

(2) "Mining" has the meaning given in section 613(c) of the Internal Revenue Code of 1986.

(3) "Agricultural processing" means transforming, packaging, sorting, or grading livestock or livestock products, agricultural commodities, or plants or plant products into goods that are used for intermediate or final consumption including goods for nonfood use.

(4) "Research and development" means qualified research as defined in section 41(d) of the Internal Revenue Code of 1986.

(5) "Qualified high technology" means one or more of the following activities:

(i) advanced computing, which is any technology used in the design and development of any of the following:

(A) computer hardware and software;

(B) data communications; and

(C) information technologies;

(ii) advanced materials, which are materials with engineered properties created through the development of specialized process and synthesis technology;

(iii) biotechnology, which is any technology that uses living organisms, cells, macromolecules, microorganisms, or substances from living organisms to make or modify a product, improve plants or animals, or develop microorganisms for useful purposes;

(iv) electronic device technology, which is any technology that involves microelectronics, semiconductors, electronic equipment, and instrumentation, radio frequency, microwave, and millimeter electronics, and optical and optic-electrical devices, or data and digital communications and imaging devices;

(v) engineering or laboratory testing related to the development of a product;

(vi) technology that assists in the assessment or prevention of threats or damage to human health or the environment, including, but not limited to, environmental cleanup technology, pollution prevention technology, or development of alternative energy sources;

(vii) medical device technology, which is any technology that involves medical equipment or products other than a pharmaceutical product that has therapeutic or diagnostic value and is regulated; or

(viii) advanced vehicles technology which is any technology that involves electric vehicles, hybrid vehicles, or alternative fuel vehicles, or components used in the construction of electric vehicles, hybrid vehicles, or alternative fuel vehicles. An electric vehicle is a road vehicle that draws propulsion energy only from an onboard source of electrical energy. A hybrid vehicle is a road vehicle that can draw propulsion energy from both a consumable fuel and a rechargeable energy storage system.

(d) The authority to grant new abatements under this subdivision expires on July 1, 2004, except that the authority to grant new abatements for real and personal property subject to valuation under Minnesota Rules, chapter 8100, does not expire.

Subd. 7. **Review and modification of abatements.** The political subdivision may provide in the abatement resolution that the abatement may not be modified or changed during its term. If the abatement resolution does not provide that the abatement may not be modified or changed, the governing body of the political subdivision may review and modify the abatement every second year after it was approved.

Subd. 8. **Limitation on abatements.** In any year, the total amount of property taxes abated by a political subdivision under this section may not exceed (1) ten percent of the net tax capacity of the political subdivision for the taxes payable year to which the abatement applies, or (2) $200,000, whichever is greater. The limit under this subdivision does not apply to:

(i) an uncollected abatement from a prior year that is added to the abatement levy; or

(ii) a taxpayer whose real and personal property is subject to valuation under Minnesota Rules, chapter 8100.

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. This subdivision does not apply to abatements granted to a taxpayer whose real

and personal property is valued under Minnesota Rules, chapter 8100.

Subd. 10. **Applicability to utility properties.** When this statute is applied or utilized with respect to a taxpayer whose real and personal property is subject to valuation under Minnesota Rules, chapter 8100, the provisions of this section and sections 469.1814 and 469.1815 shall apply only to property specified or described in the abatement contract or agreement.

History: *1997 c 231 art 2 s 46; 1998 c 397 art 11 s 3; 1999 c 243 art 10 s 8-14; 1999 c 248 s 19; 2000 c 490 art 11 s 33-35; 1Sp2001 c 5 art 15 s 26; 2002 c 377 art 7 s 5; 2003 c 127 art 10 s 26; art 12 s 19; 1Sp2003 c 21 art 10 s 11; 2005 c 152 art 1 s 17; 2006 c 259 art 4 s 14-19; 2008 c 366 art 6 s 43*

469.1814 BONDING AUTHORITY.

Subdivision 1. **Authority.** A political subdivision may issue bonds or other obligations to provide an amount equal to the sum of the abatements granted for a property under section 469.1813. The maximum principal amount of these bonds may not exceed the estimated sum of the abatements for the property for the years authorized. The bonds may be general obligations of the political subdivision if the governing body of the political subdivision elects to pledge the full faith and credit of the subdivision in the resolution issuing the bonds.

Subd. 2. **Chapter 475 applies.** Chapter 475 applies to the obligations authorized by this section, except bonds are excluded from the calculation of the net debt limit.

Subd. 3. **Municipal issue for combined abatements.** If two or more political subdivisions decide to grant abatements for the same property, the municipality in which the property is located may issue bonds to provide an amount equal to the sum of the abatements for each of the jurisdictions that agrees. The governing body of each of the other jurisdictions must guarantee and pledge to pay annually to the municipality the amount of the abatement. This pledge and guarantee is a binding obligation of the political subdivision and must be included in the abatement resolution.

Subd. 4. **Bonded abatements not subject to review.** If bonds are issued to provide advance payment of abatements under this section, the amount of abatement is not subject to periodic review by the political subdivision under section 469.1813, subdivision 7.

Subd. 5. **Use of proceeds.** The proceeds of bonds issued under this section may be used to (1) pay for public improvements that benefit the property, (2) to acquire and convey land or other property, as provided under this section, (3) to reimburse the property owner for the cost of improvements made to the property, or (4) to pay the costs of issuance of the bonds.

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: *1997 c 231 art 2 s 47; 1999 c 248 s 19; 1Sp2001 c 5 art 15 s 27*

469.1815 ADMINISTRATIVE.

Subdivision 1. **Inclusion in proposed and final levies.** The political subdivision must add to its levy amount for the current year under sections 275.065 and 275.07 the total estimated amount of all current year abatements granted. If all or a portion of an abatement levy for a prior year was uncollected, the political subdivision may add the uncollected amount to its abatement levy for the current year. The tax amounts shown on the proposed notice under section 275.065, subdivision 3, and on the property tax statement under section 276.04, subdivision 2, are the total amounts before the reduction of any abatements that will be granted on the property.

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: *1997 c 231 art 2 s 48; 1999 c 243 art 10 s 15; 1999 c 248 s 19; 2003 c 127 art 10 s 27*

469.182 EMPLOYMENT BUREAUS; FIRST CLASS CITIES.

Any city of the first class may establish and conduct an employment bureau, and provide for its regulation and maintenance by the city.

History: *1987 c 291 s 183*

469.183 BONDS FOR MUNICIPAL MARKET; FIRST CLASS CITIES.

Subdivision 1. **Issuance.** The governing body of any city of the first class that owns, maintains, and operates its own municipal market may issue negotiable bonds in an amount in the aggregate not exceeding $200,000. These bonds shall be in the denominations and payable at the places and at the times, not exceeding 30 years from the date of issuance, as deemed best by the governing body of the city. The bonds shall be in serial form and bear interest at a rate not to exceed six percent per annum, payable semiannually, at the place designated therein. The governing body may negotiate and sell the bonds from time to time to the highest bidder or bidders, and upon the best terms that can be obtained, provided that no such bonds shall be sold for less than the par value thereof and accrued interest thereon.

Subd. 2. **Limitations not to apply.** The bonds authorized by subdivision 1, or any portion thereof, may be issued and sold by any such city notwithstanding any limitation contained in the charter of the city or in any law prescribing or fixing any limit upon the bonded indebtedness of the city. The governing body of a city issuing these bonds shall set aside annually from the revenues of the operation of projects for which the bond issue is authorized, a sufficient amount to pay the interest on the bonds and the principal of any such bonds maturing in any year. In the event that revenue is insufficient for this purpose, the governing body of the city shall include in the tax levy a sufficient amount for the payment of the interest as it accrues and for the accumulation of a sinking fund for the redemption of the bonds at their maturity.

Subd. 3. **Use of proceeds.** The proceeds of any bonds issued or sold under the authority of this section shall be used for the purchase or condemnation of a site or sites for the expansion, improvement, and equipment of the municipal market, owned, maintained, and operated by the city; provided, that no bonds in excess of $200,000 shall be issued for those purposes.

Subd. 4. **Additional powers.** The authority granted in this section is in addition to all existing power and authority of any city operating under a home rule charter adopted in pursuance of the Constitution of the State of Minnesota, article IV, section 36, article XI, section 4, or article XII, section 5.

History: *1987 c 291 s 184; 1997 c 7 art 4 s 8*

469.1831 NEIGHBORHOOD REVITALIZATION PROGRAM; FIRST CLASS CITY.

Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms have

the meanings given them.

(b) "Neighborhood action plan" means the plan developed with the participation of neighborhood residents under subdivision 6.

(c) "Neighborhood revitalization program" or "program" means the program developed under subdivision 5.

(d) "Neighborhood revitalization program money" or "program money" means the money derived from tax increments required to be expended on the program under section 469.1781, paragraph (b).

Subd. 2. **Establishment.** A city of the first class may establish a neighborhood revitalization program authorizing the expenditure of neighborhood revitalization program money. The activities of a program must preserve and enhance within the neighborhood private and public physical infrastructure, public health and safety, economic vitality, the sense of community, and social benefits.

Subd. 3. **Purposes; qualifying costs.** A neighborhood revitalization program may provide for expenditure of program money for the following purposes:

(1) to eliminate blighting influences by acquiring and clearing or rehabilitating properties that the city finds have caused or will cause a decline in the value of properties in the area or will increase the probability that properties in the area will be allowed to physically deteriorate;

(2) to assist in the development of industrial properties that provide employment opportunities paying a livable income to the residents of the neighborhood and that will not adversely affect the overall character of the neighborhood;

(3) to acquire, develop, construct, physically maintain, rehabilitate, renovate, or replace neighborhood commercial and retail facilities necessary to maintain neighborhood vitality;

(4) to eliminate health hazards through the removal of hazardous waste and pollution and return of land to productive use, if the responsible party is unavailable or unable to pay for the cost;

(5) to rehabilitate existing housing and encourage homeownership;

(6) to construct new housing, where appropriate;

(7) to rehabilitate and construct new low-income, affordable rental housing;

(8) to remove vacant and boarded up houses; and

(9) to rehabilitate or construct community-based nonprofit and public facilities necessary to carry out the purpose of the program.

Subd. 4. **Program money; distribution and restrictions.** (a) Neighborhood revitalization program money may only be expended in accordance with the program for a purpose listed in subdivision 3 or this subdivision. Program money may not be used in those project areas

of the city where the city determines that private investment will be sufficient to provide for development and redevelopment of the project area without public sector assistance, except in cases where program money is being used to remove or rehabilitate structurally substandard or obsolete buildings. Revenues derived from tax increments may only be expended for the purposes otherwise permitted by law, except that notwithstanding any law to the contrary, the city must pay at least the following amount of program money, including revenues derived from tax increments: (1) 15 percent to the school district, (2) 7.5 percent to the county, and (3) 7.5 percent for social services. Payment must be made to the county and school district within 15 days after the city receives the distribution of increment revenues, provided that the payment for calendar year 1990 may be made at any time during the year. Payment to the county for social services delivery shall be paid only after approval of program and spending plans under paragraph (b). Payment to the school district for education programs and services shall be paid only after approval of program and spending plans under paragraph (b).

(b) The money distributed to the county in a calendar year must be deducted from the county's levy limit for the following calendar year. In calculating the county's levy limit base for later years, the amount deducted must be treated as a local government aid payment.

The city must notify the commissioner of education of the amount of the payment made to the school district for the year. The commissioner shall deduct from the school district's state education aid payments one-half of the amount received by the school district.

The program money paid to the school district by the city less any amount of state aid deducted by the commissioner must be expended for additional education programs and services in accordance with the program. The amounts expended by the school district may not replace existing services.

The money for social services must be paid to the county for the cost of the provision of social services under the plan, as approved by the policy board and the county board.

(c) The city must expend on housing programs and related purposes as provided by the program at least 75 percent of the program money, after deducting the payments to the school district and county.

(d) Notwithstanding any other provisions of law to the contrary, for a city of the first class qualifying under section 469.1781, paragraph (a), program money and money described in Laws 1990, chapter 604, article 7, section 29, as amended, may be expended anywhere within the city by the authority for a purpose permitted by this section for any political subdivision without compliance with section 469.175, subdivision 4, and such money shall be deemed to be expended for a purpose that is a permitted project under section 469.176 and for a purpose that is permitted under section 469.176 for the district from which the increment was received.

Subd. 5. **Neighborhood revitalization program; contents.** (a) The neighborhood

revitalization program must be developed based on the following general principles:

(1) the social needs of neighborhood residents, particularly lower income residents, must be addressed to provide a safe and healthy environment for neighborhood residents, provide for the self-sufficiency of families, and increase the economic and social stability of neighborhoods;

(2) the children residing in the neighborhoods must be given the opportunity for a quality education and the needs of each neighborhood must be addressed individually wherever possible; and

(3) the physical structure of the neighborhoods must be enhanced by providing safe and suitable housing and infrastructure to increase the desirability of neighborhoods as places to live.

(b) The neighborhood revitalization program must include the following:

(1) the identification of the neighborhoods that require assistance through the program;

(2) a strategy of the citizen participation required under subdivision 6;

(3) the neighborhood action plans required under subdivision 6;

(4) the activities of participating organizations undertaken to address the general principles; and

(5) an evaluation of the success of the neighborhood action plans.

Subd. 6. **Citizen participation required.** (a) The neighborhood revitalization program must be developed with the process outlined in this subdivision.

(b) The program must include the preparation and implementation of neighborhood action plans. The city must organize neighborhoods to prepare and implement the neighborhood action plans. The neighborhoods must include the participation of, whenever possible, all populations and interests in each neighborhood including renters, homeowners, people of color, business owners, representatives of neighborhood institutions, youth, and the elderly. The neighborhood action plan must be submitted to the policy board established under paragraph (c). The city must provide available resources, information, and technical assistance to prepare the neighborhood action plans.

(c) Each city that develops a program must establish a policy board whose membership includes members of the city council, county board, school board, and citywide library and park board where they exist appointed by the respective governing bodies; the mayor or designee of the mayor; and a representative from the city's house of representatives delegation and a representative from the city's state senate delegation appointed by the respective delegation. The policy board may also include representatives of citywide community organizations, neighborhood organizations, business owners, labor, and neighborhood residents. The elected

officials and appointed members of the library board who are members of the policy board may appoint the other members of the board.

(d) The policy board shall review, modify where appropriate, and approve, in whole or in part, the neighborhood action plans and forward its recommendations for final action to the governing bodies represented on the policy board. The governing bodies shall review, modify where appropriate, and give final approval, in whole or in part, to those actions over which they have programmatic jurisdiction.

(e) Except for the legislative appointees, each of the governmental units and groups named in paragraph (c) may, by resolution or agreement of its governing body, become a member of the policy board. The nongovernmental organizations and persons named in paragraph (c) shall provide members of the policy board upon invitation by the governmental members of the policy board. The member to represent a nongovernmental organization shall be a member of the policy board only upon resolution or agreement of the governing body of the member's organization. Upon the resolution or agreement of two or more governmental bodies or governmental boards, the policy board shall be a joint powers board under section 471.59, except that no power may be exercised under section 471.59, subdivision 11. The policy board may:

(1) sue and be sued. All defenses and limitations available to municipalities under chapter 466 and other laws, shall apply to the policy board, its members, director, and other staff members;

(2) hire, retain, discipline, and terminate a director to direct its activities and accomplish its program. The director may hire necessary staff subject to authorization by the board;

(3) enter into contracts, leases, purchases, or other documents evidencing its undertakings. No contract, lease, or purchase or other document may be entered into unless funds have been appropriated or otherwise made available to the policy board;

(4) adopt bylaws for its own governance;

(5) enter into agreements with governmental units and governing boards, and nongovernmental organizations represented on the policy board for services required to fulfill the policy boards' purposes;

(6) accept gifts, donations, and appropriations from governmental or nongovernmental sources and apply for grants from them;

(7) review activities to determine whether the expenditure of program money and other money is in compliance with the neighborhood plans adopted by the policy board and approved by the governing bodies having jurisdiction over the program, and report its findings prior to October 1 of each year to all of the governmental units, agencies, and nongovernmental organizations represented on the policy board; and

(8) prepare annually an administrative budget for the ensuing year, estimating its expenditures and estimated revenues, and forward its proposed budget to the governmental units and agencies and nongovernmental organizations for appropriate action.

Subd. 7. **Review of program compliance.** The policy board must periodically review the activities funded with program money to determine if the expenditure of the program money is in compliance with the neighborhood revitalization program.

Subd. 8. **Distribution of neighborhood participation.** The city of Minneapolis shall ensure that all planning districts in the city are allowed to participate in its neighborhood revitalization program.

History: *1990 c 604 art 7 s 27; 1991 c 59 s 1; 1991 c 291 art 10 s 17; 1992 c 590 s 1; 1993 c 375 art 14 s 19; 1Sp1995 c 3 art 1 s 54; art 16 s 13; 1996 c 355 s 1,2; 2003 c 130 s 12*

469.184 MUNICIPAL COMMERCIAL REHABILITATION LOAN PROGRAM.

Subdivision 1. **Purpose.** The legislature finds that in many cities within the state there are small and medium sized commercial buildings which are physically deteriorating and in need of rehabilitation; that there is a need for city programs for the rehabilitation of these commercial buildings; that some owners of small- and medium-sized commercial buildings are unable to afford rehabilitation loans in the private mortgage market and that the health, safety, and general welfare and the preservation of the quality of life of the residents of Minnesota cities are dependent upon the preservation and rehabilitation of these commercial buildings.

Subd. 2. **Findings required.** To accomplish the purposes specified in subdivision 1, the governing body of any home rule charter or statutory city may, by ordinance, establish and provide for the administration of a commercial building loan program to rehabilitate and preserve small- and medium-sized commercial buildings located within its boundaries, upon making the following findings:

(1) that commercial buildings in the city are physically deteriorating, underused, economically inefficient, or functionally obsolete, and in need of rehabilitation to meet applicable building codes;

(2) that there is a need for a comprehensive program for the rehabilitation of the buildings to prevent economic and physical blight and deterioration, to increase the municipal tax base, and, if the city has adopted a comprehensive plan, to assist in the implementation of the comprehensive plan of the municipality;

(3) that some owners of small- and medium-sized commercial buildings in the city are unable to afford rehabilitation loans on terms available in the private mortgage market or to obtain rehabilitation loans on any terms because the private mortgage market is severely restricted; and

(4) that the health, safety, and general welfare and the preservation of the quality of life of the residents of the city are dependent upon the preservation and rehabilitation of the small- and medium-sized commercial buildings.

Subd. 3. **Program.** The program may include provisions for loans for rehabilitation and preservation purposes, secured by mortgages on the property with respect to which the loans are made, or by other security acceptable to the governing body of the city. Except as hereinafter provided, the loans may be made on terms and conditions as authorized in the program. In approving applications for loans from a program, the following factors shall be considered:

(1) the availability and affordability of private mortgage credit;

(2) the availability and affordability of other governmental programs;

(3) whether the building is required, pursuant to any court order, statute, or ordinance, to be repaired, improved, or rehabilitated; and

(4) whether the proposed improvements will result in conformance with building and zoning codes and improvement of the aesthetic quality of existing commercial areas.

Subd. 4. **Limitations.** A loan program shall be operated within the following limitations:

(1) the terms and conditions of all loans made under the program shall be fixed so that the sum of all repayments of principal and interest on them, not then delinquent, and all fees and charges collected, together with other sums to be contributed by the city, shall, over the duration of the program, be estimated to be equal to or greater than the sum of all estimated costs of the program, as determined by the program administrator and approved by the governing body of the city, including administrative costs, mortgage foreclosure costs, and principal and interest payments on bonds issued to finance the program to the extent not paid from bond proceeds;

(2) no loan shall be made for a period exceeding 20 years;

(3) no loan shall exceed 80 percent of the estimated market value of the property to be rehabilitated upon completion of the rehabilitation, less the principal balance of any prior mortgage existing on the property at the time the loan is made; and

(4) no loan shall be made in excess of $200,000 for the rehabilitation of any particular small- or medium-sized commercial building.

Subd. 5. **Grant prohibition.** A program authorized by this section does not include the making of grants.

Subd. 6. **Administration.** The municipality may administer the program directly or may contract with any qualified public or private nonprofit agency or enterprise for some or all of the services required. The ordinance establishing the program shall provide for the adoption of program regulations which shall include a definition of "small- and medium-sized commercial

buildings," loan eligibility and loan priority criteria, loan amount limitations, and other provisions as deemed necessary.

Subd. 7. **Housing and redevelopment authority as agent.** A housing and redevelopment authority of a city or county may exercise any or all of the powers conferred by this section on behalf of a city, if the city by ordinance authorizes it.

Subd. 8. **Revenue bonds.** Notwithstanding any contrary provision of other law or charter, the governing body of any city operating a program under this section may, by resolution, authorize, issue, and sell revenue bonds or obligations payable solely from all or a portion of the revenues derived from or other contributions to the program. The bonds or obligations shall mature as determined by resolution of the governing body of the city in accordance with the limitations of subdivision 4.

The bonds or obligations may be issued in one or more series, bear a date or dates, bear interest at a rate or rates, be in the denomination or denominations, be either coupon or registered, carry conversion or registration privileges, have rank or priority, be executed in the manner, be payable at the place or places, and be subject to the terms of redemption, with or without premium, as the resolution, its trust indenture, or mortgage may provide. The bonds or obligations may be sold at public or private sale at the price or prices the governing body of the city by resolution determines, and notwithstanding any contrary provision of law, shall be fully negotiable. In any suit, action, or proceedings involving the validity or enforceability of any bonds or obligations of the city or their security, any bond reciting in substance that it has been issued by the city to aid in financing a commercial rehabilitation loan program shall be conclusively deemed to have been issued for that purpose, and the program shall be conclusively deemed to have been authorized, established, and carried out in accordance with the purposes and provisions of this section. Neither the city nor any council member, board member, director, commissioner, officer, employee, or agent of the governing body of the city nor any person executing the bonds shall be liable personally on the bonds by reason of their issuance. The bonds or obligations may be further secured by a pledge or mortgage on the property with respect to which loans are made and in aid of which the bonds are issued and by covenants as the governing body of the city shall deem by resolution to be necessary and proper to secure payment of the bonds. The bonds or obligations, and they shall so state on their face, shall not be payable from nor charged upon any funds other than the revenues and properties pledged or mortgaged to their payment, nor shall the issuing city be subject to any liability on them or have the powers to obligate itself to pay or pay the bonds from funds other than the revenues and properties pledged and mortgaged and no holder of the bonds or obligations shall ever have the right to compel any exercise of any taxing power of the issuing city or any other public body to pay the principal of or interest on the bonds

or obligations, nor to enforce payment of them against any property of the city or other public body other than that expressly pledged or mortgaged for their payment.

Subd. 9. **Use of bond proceeds.** The proceeds of the revenue bonds or obligations may be used

(1) to make loans in accordance with a program,

(2) to establish a fund from which loans may be made in accordance with a program,

(3) to establish reserves for the payment of the bonds and interest on them,

(4) to pay all of the interest coming due on the bonds until the money derived from loan repayments is sufficient for the purpose, and

(5) to pay costs of issuance.

Subd. 10. **Security for bonds.** The city may pledge any mortgages securing loans made under the program and all principal and interest payments to be received under them to the payment of revenue bonds or obligations issued under this section, may make other covenants with respect to them, future mortgages or other matters as deemed necessary for the security of the revenue bonds or obligations, and may assign all of its rights under the mortgages to a trustee for bond holders and enter into an indenture of trust for this purpose, containing other terms and provisions and conferring powers on the trustee as considered necessary for the security of the bonds or obligations.

Subd. 11. **Additional security for bonds.** The governing body of the city shall not amend the regulations adopted by ordinance and in effect at the time any bonds or obligations authorized by this section are issued, to the detriment of the holder of the bonds or obligations.

Subd. 12. **Secondary market.** A city may sell, at private or public sale, at the price or prices determined by the city, a note, mortgage, lease, sublease, lease purchase, or other instrument or obligation evidencing or securing a loan made under this section.

History: *1987 c 291 s 185; 1994 c 614 s 11*

469.185 CONVEYING LAND TO PROMOTE INDUSTRY, EMPLOYMENT.

Any municipality owning lands in fee simple and not restricted by the grant, may convey the lands for a nominal consideration to encourage and promote industry and provide employment for citizens.

History: *1987 c 291 s 186*

469.186 BUREAU OF INFORMATION AND PUBLICITY; STATUTORY CITIES.

The council of any statutory city may establish and maintain a bureau of information and publicity for the purpose of furnishing tourists information and for outdoor advertising and for

preparing, publishing, and circulating information and facts concerning the recreational facilities and business and industrial conditions of the community.

History: *1987 c 291 s 187*

469.187 FIRST CLASS CITY SPENDING FOR PUBLICITY; PUBLICITY BOARD.

Any city of the first class may expend money for city publicity purposes. The city may levy a tax, not exceeding 0.00080 percent of taxable market value. The proceeds of the levy shall be expended in the manner and for the city publicity purposes the council directs. The council may establish and provide for a publicity board or bureau to administer the fund, subject to the conditions and limitations the council prescribes by ordinance.

History: *1987 c 291 s 188; 1988 c 719 art 5 s 84; 1989 c 277 art 4 s 66*

469.188 2ND, 3RD CLASS CITY MAY LEVY TO ADVERTISE ITS RESOURCES.

The governing body of any city of the second or third class in this state may levy a tax for the purpose of advertising agricultural, industrial business, and all other resources of the community.

History: *1987 c 291 s 189; 1989 c 277 art 4 s 67; 1994 c 505 art 4 s 5*

469.189 SPEND TO ADVERTISE CITY; STATUTORY, 2, 3, 4TH CLASS CITY.

The governing body of any statutory city or home rule charter city of the second, third, or fourth class may annually appropriate money to advertise the municipality and its resources and advantages. The money appropriated shall be used only to advertise the municipality or for cooperative programs of promotion for the area by more than one municipality and its resources and advantages.

History: *1987 c 216 s 2; 1987 c 291 s 190,243*

469.190 LOCAL LODGING TAX.

Subdivision 1. **Authorization.** Notwithstanding section 477A.016 or any other law, a statutory or home rule charter city may by ordinance, and a town may by the affirmative vote of the electors at the annual town meeting, or at a special town meeting, impose a tax of up to three percent on the gross receipts from the furnishing for consideration of lodging at a hotel, motel, rooming house, tourist court, or resort, other than the renting or leasing of it for a continuous period of 30 days or more. A statutory or home rule charter city may by ordinance impose the tax authorized under this subdivision on the camping site receipts of a municipal campground.

Subd. 2. **Existing taxes.** No statutory or home rule charter city or town may impose a tax under this section upon transient lodging that, when combined with any tax authorized by special law or enacted prior to 1972, exceeds a rate of three percent.

Subd. 3. **Disposition of proceeds.** Ninety-five percent of the gross proceeds from any tax

imposed under subdivision 1 shall be used by the statutory or home rule charter city or town to fund a local convention or tourism bureau for the purpose of marketing and promoting the city or town as a tourist or convention center. This subdivision shall not apply to any statutory or home rule charter city or town that has a lodging tax authorized by special law or enacted prior to 1972 at the time of enactment of this section.

Subd. 4. **Unorganized territories.** A county board acting as a town board with respect to an unorganized territory may impose a lodging tax within the unorganized territory according to this section if it determines by resolution that imposition of the tax is in the public interest.

Subd. 5. **Reverse referendum.** If the county board passes a resolution under subdivision 4 to impose the tax, the resolution must be published for two successive weeks in a newspaper of general circulation within the unorganized territory, together with a notice fixing a date for a public hearing on the proposed tax.

The hearing must be held not less than two weeks nor more than four weeks after the first publication of the notice. After the public hearing, the county board may determine to take no further action, or may adopt a resolution authorizing the tax as originally proposed or approving a lesser rate of tax. The resolution must be published in a newspaper of general circulation within the unorganized territory. The voters of the unorganized territory may request a referendum on the proposed tax by filing a petition with the county auditor within 30 days after the resolution is published. The petition must be signed by voters who reside in the unorganized territory. The number of signatures must equal at least five percent of the number of persons voting in the unorganized territory in the last general election. If such a petition is timely filed, the resolution is not effective until it has been submitted to the voters residing in the unorganized territory at a general or special election and a majority of votes cast on the question of approving the resolution are in the affirmative. The commissioner of revenue shall prepare a suggested form of question to be presented at the referendum.

Subd. 6. **Joint powers agreements.** Any statutory or home rule charter city, town, or county when the county board is acting as a town board with respect to an unorganized territory, may enter into a joint exercise of powers agreement pursuant to section 471.59 for the purpose of imposing the tax and disposing of its proceeds pursuant to this section.

Subd. 7. **Collection.** The statutory or home rule charter city may agree with the commissioner of revenue that a tax imposed pursuant to this section shall be collected by the commissioner together with the tax imposed by chapter 297A, and subject to the same interest, penalties, and other rules and that its proceeds, less the cost of collection, shall be remitted to the city.

History: *1987 c 291 s 191; 1989 c 277 art 1 s 30; 1Sp1989 c 1 art 8 s 1-3; 1990 c 604*

art 6 s 6-8

469.191 CONTRIBUTIONS TO REGIONAL OR LOCAL ORGANIZATIONS.

A home rule or statutory city or town described in section 368.01, subdivision 1 or 1a, may appropriate not more than $50,000 annually out of the general revenue fund of the jurisdiction to be paid to any incorporated development society or organization of this state for promoting, advertising, improving, or developing the economic and agricultural resources of the city or town.

History: *1989 c 165 s 1*

469.192 ECONOMIC DEVELOPMENT LOANS.

A statutory city, a home rule charter city, an economic development authority, a housing and redevelopment authority, or a port authority may make a loan to a business, a for-profit or nonprofit organization, or an individual for any purpose that the entity is otherwise authorized to carry out under sections 116J.415, 469.001 to 469.068, 469.090 to 469.1081, 469.124 to 469.134, 469.152 to 469.165, or any special law.

History: *1994 c 614 s 12; 1996 c 369 s 12*

469.193 FOREIGN TRADE ZONES.

A city, county, town, or other political subdivision may apply to the board defined in United States Code, title 19, section 81a, for the right to use the powers provided in United States Code, title 19, sections 81a to 81u. If the right is granted, the city, county, town, or other political subdivision may use the powers within or outside of a port district. Any city, county, town, or other political subdivision may apply jointly with any other city, county, town, or other political subdivision.

History: *2006 c 259 art 13 s 9*

TARGETED NEIGHBORHOOD REVITALIZATION PROGRAMS

469.201 DEFINITIONS.

Subdivision 1. **Applicability.** The definitions in this section apply to sections 469.201 to 469.207.

Subd. 2. **City.** "City" means a city of the first class as defined in section 410.01 and a city of the second class that is designated as an economically depressed area by the United States Department of Commerce. For each city, a port authority, housing and redevelopment authority, or other agency or instrumentality, the jurisdiction of which is the territory of the city, is included within the meaning of city.

Subd. 3. **City council.** "City council" means the city council of a city as defined in

subdivision 2.

Subd. 4. **City matching money.** (a) "City matching money" means the money of a city specified in a revitalization program. The sources of city matching money may include:

(1) money from the general fund or a special fund of a city used to implement a revitalization program;

(2) money paid or repaid to a city from the proceeds of a grant that a city has received from the federal government, a profit or nonprofit corporation, or another entity or individual, that is to be used to implement a revitalization program;

(3) tax increments received by a city under sections 469.174 to 469.179 or other law, if eligible, to be spent in the targeted neighborhood;

(4) the greater of the fair market value or the cost to the city of acquiring land, buildings, equipment, or other real or personal property that a city contributes, grants, leases, or loans to a profit or nonprofit corporation or other entity or individual, in connection with the implementation of a revitalization program;

(5) city money to be used to acquire, install, reinstall, repair, or improve the infrastructure facilities of a targeted neighborhood;

(6) money contributed by a city to pay issuance costs, fund bond reserves, or to otherwise provide financial support for revenue bonds or obligations issued by a city for a project or program related to the implementation of a revitalization program;

(7) money derived from fees received by a city in connection with its community development activities that are to be used in implementing a revitalization program;

(8) money derived from the apportionment to the city under section 162.14 or by special law, and expended in a targeted neighborhood for an activity related to the revitalization program;

(9) administrative expenses of the city that are incurred in connection with the planning, implementation, or reporting requirements of sections 469.201 to 469.207.

(b) City matching money does not include:

(1) city money used to provide a service or to exercise a function that is ordinarily provided throughout the city, unless an increased level of the service or function is to be provided in a targeted neighborhood in accordance with a revitalization program;

(2) the proceeds of bonds issued by the city under chapter 462C or 469 and payable solely from repayments made by one or more nongovernmental persons in consideration for the financing provided by the bonds; or

(3) money given by the state to fund any part of the revitalization program.

Subd. 5. **Commissioner.** "Commissioner" means the commissioner of employment and

economic development.

Subd. 6. **Housing activities.** "Housing activities" include any work or undertaking to provide housing and related services and amenities primarily for persons and families of low or moderate income. This work or undertaking may include the planning of buildings and improvements; the acquisition of real property which may be needed immediately or in the future for housing purposes and the demolition of any existing improvements; and the construction, reconstruction, alteration, and repair of new and existing buildings. Housing activities also include the provision of a housing rehabilitation and energy improvement loan and grant program with respect to any residential property located within the targeted neighborhood, the cost of relocation relating to acquiring property for housing activities, and programs authorized by chapter 462C.

Subd. 7. **Lost unit.** "Lost unit" means a rental housing unit that is lost as a result of revitalization activities because it is demolished, converted to an owner-occupied unit that is not a cooperative, or converted to a nonresidential use, or because the gross rent to be charged exceeds 125 percent of the gross rent charged for the unit six months before the start of rehabilitation.

Subd. 8. **Persons and families of low income.** "Persons and families of low income" means persons and families of low income as defined in section 469.002, subdivision 17.

Subd. 9. **Persons and families of moderate income.** "Persons and families of moderate income" means persons and families of moderate income as defined in section 469.002, subdivision 18.

Subd. 10. **Targeted neighborhood.** "Targeted neighborhood" means an area including one or more census tracts, as determined and measured by the Bureau of Census of the United States Department of Commerce, that a city council determines in a resolution adopted under section 469.202, subdivision 1, meets the criteria of section 469.202, subdivision 2, and any additional area designated under section 469.202, subdivision 3.

Subd. 11. **Targeted neighborhood money.** "Targeted neighborhood money" means the money designated in the revitalization program to be used to implement the revitalization program.

Subd. 12. **Targeted neighborhood revitalization and financing program.** "Targeted neighborhood revitalization and financing program," "revitalization program," or "program" means the targeted neighborhood revitalization and financing program adopted in accordance with section 469.203.

History: *1989 c 328 art 6 s 12; 1991 c 345 art 1 s 93; 1Sp2003 c 4 s 1*

469.202 DESIGNATION OF TARGETED NEIGHBORHOODS.

Subdivision 1. **City authority.** A city may by resolution designate targeted neighborhoods within its borders after adopting detailed findings that the designated neighborhoods meet the

eligibility requirements in subdivision 2 or 3.

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.

Subd. 3. **Additional area eligible for inclusion in targeted neighborhood.** (a) A city may add to the area designated as a targeted neighborhood under subdivision 2 additional area extending up to four contiguous city blocks in all directions from the designated targeted neighborhood. For the purpose of this subdivision, "city block" has the meaning determined by the city; or

(b) The city may enlarge the targeted neighborhood to include portions of a census tract that is contiguous to a targeted neighborhood, provided that the city council first determines the additional area satisfies two of the three criteria in subdivision 2.

History: *1989 c 328 art 6 s 13; 1Sp2001 c 5 art 3 s 68*

469.203 TARGETED NEIGHBORHOOD REVITALIZATION AND FINANCING.

Subdivision 1. **Requirements.** For each targeted neighborhood for which a city requests state financial assistance under section 469.204, the city must prepare a comprehensive revitalization and financing program that includes the following:

(1) the revitalization objectives of the city for the targeted neighborhood;

(2) the specific activities or means by which the city intends to pursue and implement the revitalization objectives;

(3) the extent to which the activities identified in clause (2) will benefit low- and moderate-income families, will alleviate the blighted condition of the targeted neighborhood, or will otherwise assist in the revitalization of the targeted neighborhood;

(4) a statement of the intended outcomes to be achieved by implementation of the revitalization program, how the outcomes will be measured both qualitatively and quantitatively, and the estimated time over which they will occur; and

(5) a financing program and budget that identifies the financial resources necessary to implement the revitalization program, including:

(i) the estimated total cost to implement the revitalization program;

(ii) the estimated cost to implement each activity in the revitalization program identified in clause (2);

(iii) the estimated amount of financial resources that will be available from all sources other than from the appropriation available under section 469.204 to implement the revitalization program, including the amount of private investment expected to result from the use of public money in the targeted neighborhood;

(iv) the estimated amount of the appropriation available under section 469.204 that will be necessary to implement the revitalization program;

(v) a description of the activities identified in the revitalization program for which the state appropriation will be committed or spent; and

(vi) a statement of how the city intends to meet the requirement for a financial contribution from city matching money in accordance with section 469.204, subdivision 3.

Subd. 2. **Targeted neighborhood participation in preparing revitalization program.** A city requesting state financial assistance under section 469.204 shall adopt a process to involve the residents of targeted neighborhoods in the development, drafting, and implementation of the revitalization program. The process shall include the use of a citizen participation process established by the city. A description of the process must be included in the program. The process to involve residents of the targeted neighborhood must include at least one public hearing. The city of Minneapolis shall establish the community-based process as outlined in subdivision 3. The city of St. Paul shall use the same community-based process the city used in planning, developing, drafting, and implementing the revitalization program required under Laws 1987, chapter 386, article 6, section 6. The city of Duluth shall use the same citizen participation process the city used in planning, developing, and implementing the federal funded community development program.

Subd. 3. **Community participation; Minneapolis.** (a) For the purposes of this subdivision, "city" means the city of Minneapolis.

(b) The city shall adopt a process to involve the residents in targeted neighborhoods and assisted housing in planning, developing, and implementing the program. As part of this process, the city shall ensure that the community-based process has sufficient resources to assist in the development of the program and that the advisory board is established.

(c) Beginning with the program for 1991, each targeted neighborhood or group of targeted neighborhoods in the city must have a strategic planning group whose members include residents of the targeted neighborhood and representatives of institutions in the neighborhood. The group shall, as part of its responsibilities, develop a strategic plan for the neighborhood. This strategic plan must include the elements that the planning group recommends as part of the program. The strategic plan must also address how the targeted neighborhood portions of the revitalization program will be integrated with the elements that are recommended to be included as part of the community resources program if such a program is developed in the city. If possible, the city shall integrate the community participation process required under this subdivision with the community participation process required for the development of the community resources program if such a program is developed in the city.

(d) The city shall ensure that the strategic planning group required under paragraph (c) is established. An existing group or organization that reflects the required membership under paragraph (c) may be designated as the strategic planning group. The city may provide financial and staff resources to ensure the establishment of the strategic planning groups, and may use part of the money received from the state under section 469.204 to assist in the establishment of the targeted neighborhood strategic planning groups.

(e) As part of the process for the development of the program, each targeted neighborhood strategic planning group shall submit assigned priority recommendations for the revitalization program to the city and the advisory board established under paragraph (f).

(f) The city shall establish an urban revitalization action program advisory committee to assist the city in developing and implementing the preliminary revitalization program. The advisory committee shall consist of at least two representatives of the city council appointed by the city council, one or more for-profit or nonprofit housing developers, one or more representatives of the business community appointed by the city's chamber of commerce, and resident representatives of the targeted neighborhoods. The representatives of the targeted neighborhoods shall represent a majority of the membership of the advisory committee and reflect the geographic, cultural, racial, and ethnic diversity of the targeted neighborhoods. The city may determine the size of the advisory committee and may designate an existing entity as the advisory committee if the entity meets the membership requirements outlined in this subdivision.

(g) The advisory committee shall work closely with city staff in developing and drafting the preliminary revitalization program. The advisory committee shall be involved in assessing needs, prioritizing funds, and developing criteria for evaluating program proposals. In developing the preliminary program, the advisory committee shall give consideration to the recommendations made by the targeted neighborhood strategic planning groups.

(h) The advisory committee shall conduct a public hearing and secure input from residents of targeted neighborhoods, business persons, governmental units affected by the program, and other organizations and persons.

(i) The advisory committee and city staff may make any changes to the preliminary program resulting from testimony given at the public hearing. The advisory committee must formally recommend to the city council a preliminary revitalization program.

Subd. 4. **City approval of program.** (a) Before adoption of a revitalization program under paragraph (b), the city must submit a preliminary program to the commissioner and the Minnesota Housing Finance Agency for their comments. The city may not adopt the revitalization program until comments have been received from the state agencies or 30 days have elapsed without response after the program was sent to them. Comments received by the city from the state agencies within the 30-day period must be responded to in writing by the city before adoption of the program by the city.

(b) The city may adopt a revitalization program only after holding a public hearing after the program has been prepared. Notice of the hearing must be provided in a newspaper of general circulation in the city and in the most widely circulated community newspaper in the targeted neighborhoods not less than ten days nor more than 30 days before the date of the hearing.

(c) A certification by the city that a revitalization program has been approved by the city council for the targeted neighborhood must be provided to the commissioner together with a copy of the program. A copy of the program must also be provided to the Minnesota Housing Finance Agency and the commissioner of employment and economic development.

(d) A revitalization program for the city may be modified at any time by the city council after a public hearing, notice of which is published in a newspaper of general circulation in the city and in the targeted neighborhood at least ten days nor more than 30 days before the date of the hearing. If the city council determines that the proposed modification is a significant modification to the program originally certified under paragraph (c), the city council shall implement the revitalization program approval and certification process of this subdivision for the proposed modification.

Subd. 5. [Repealed, 1990 c 423 s 7]

History: *1989 c 328 art 6 s 14; 1990 c 423 s 6; 1991 c 345 art 2 s 60; 2000 c 260 s 67; 1Sp2003 c 4 s 1*

469.204 PAYMENT; CITY MATCH; DRAWDOWN; USES OF STATE MONEY.

Subdivision 1. **Payment of state money.** Upon receipt from a city of a certification that a revitalization program has been adopted or modified, the commissioner shall, within 30 days, pay to the city the amount of state money identified as necessary to implement the revitalization

program or program modification. State money may be paid to the city only to the extent that the appropriation limit for the city specified in subdivision 2 is not exceeded. Once the state money has been paid to the city, it becomes targeted neighborhood money for use by the city in accordance with an adopted revitalization program and subject only to the restrictions on its use in sections 469.201 to 469.207.

Subd. 2. **Allocation.** Each city of the first class, as defined in section 410.01, may receive a part of the appropriations made available that is the proportion that the population of such city bears to the combined population of such cities of the first class. One city may agree to reduce its entitlement amount and to make it available to another city. For the purposes of this subdivision the population of each city is determined according to the most recent estimates available to the commissioner. Interest earned by a city from money paid to the city must be repaid to the commissioner annually unless the revitalization program identifies the interest as necessary to implement the revitalization program and the requirement for city matching money is satisfied with respect to the interest.

Subd. 3. **City matching money; drawdown and restriction on use of state money.** A city may spend state money only if the revitalization program identifies city matching money to be used to implement the program in an amount equal to the state appropriation paid to the city. A city must keep the state money in a segregated fund for accounting purposes.

History: *1989 c 328 art 6 s 15*

469.205 CITY POWERS; USES OF TARGETED NEIGHBORHOOD MONEY.

Subdivision 1. **Consolidation of existing powers in targeted neighborhoods.** A city may exercise any of its corporate powers within a targeted neighborhood. Those powers shall include, but not be limited to, all of the powers enumerated and granted to any city by chapters 462C, 469, and 474A. For the purposes of sections 469.048 to 469.068, a targeted neighborhood is considered an industrial development district. A city may exercise the powers of sections 469.048 to 469.068 in conjunction with, and in addition to, exercising the powers granted by sections 469.001 to 469.047 and chapter 462C, in order to promote and assist housing construction and rehabilitation within a targeted neighborhood. For the purposes of section 462C.02, subdivision 9, a targeted neighborhood is considered a "targeted area."

Subd. 2. **Grants and loans.** In addition to the authority granted by other law, a city may make grants, loans, and other forms of public assistance to individuals, for-profit and nonprofit corporations, and other organizations to implement a revitalization program. The public assistance must contain the terms the city considers proper to implement a revitalization program.

Subd. 3. **Eligible uses of targeted neighborhood money.** The city may spend targeted neighborhood money for any purpose authorized by subdivision 1 or 2, except that an amount

equal to at least 50 percent of the state payment under section 469.204 made to the city must be used for housing activities. Use of target neighborhood money must be authorized in a revitalization program.

History: *1989 c 328 art 6 s 16*

469.206 HAZARDOUS PROPERTY PENALTY.

A city may assess a penalty up to one percent of the market value of real property, including any building located within the city that the city determines to be hazardous as defined in section 463.15, subdivision 3. The city shall send a written notice to the address to which the property tax statement is sent at least 90 days before it may assess the penalty. If the owner of the property has not paid the penalty or fixed the property within 90 days after receiving notice of the penalty, the penalty is considered delinquent and is increased by 25 percent each 60 days the penalty is not paid and the property remains hazardous. For the purposes of this section, a penalty that is delinquent is considered a delinquent property tax and subject to chapters 279, 280, and 281, in the same manner as delinquent property taxes.

History: *1989 c 328 art 6 s 17*

469.207 ANNUAL AUDIT AND REPORT.

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

Subd. 2. **Annual report.** A city that begins to implement a revitalization program in a calendar year must, by March 1 of the succeeding calendar year, provide a detailed report on the revitalization program or programs being implemented in the city. The report must describe the status of the program implementation and analyze whether the intended outcomes identified in section 469.203, subdivision 1, clause (4), are being achieved. The report must include at least the following:

(1) the number of housing units, including lost units, removed, created, lost, replaced, relocated, and assisted as a result of the program. The level of rent of the units and the income of the households affected must be included in the report;

(2) the number and type of commercial establishments removed, created, and assisted as a result of a revitalization program. The report must include information regarding the number of new jobs created by category, whether the jobs are full time or part time, and the salary or wage levels of both new and expanded jobs in the affected commercial establishments;

(3) a description of a statement of the cost of the public improvement projects that are part of the program and the number of jobs created for each $20,000 of money spent on commercial projects and applicable public improvement projects;

(4) the increase in the tax capacity for the city as a result of the assistance to commercial and housing assistance; and

(5) the amount of private investment that is a result of the use of public money in a targeted neighborhood.

The report must be submitted to the commissioner, the Minnesota housing finance agency, and the legislative audit commission, and must be available to the public.

History: *1989 c 328 art 6 s 18; 1991 c 345 art 2 s 61,62*

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.

Subd. 2. **Commissioner.** "Commissioner" means the commissioner of employment and economic development.

Subd. 3. **Enterprise zone.** "Enterprise zone" means an area in the state designated as such by the commissioner.

Subd. 4. **City.** "City" means any city that contains an area that meets the criteria for designation as a federal empowerment zone or enterprise community and meets the eligibility criteria in section 469.303, or a city of the second class that is designated as an economically depressed area by the United States Department of Commerce.

Subd. 5. **Governing body.** "Governing body" means the city council or other body designated by its charter.

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: *1994 c 483 s 1; 1994 c 587 art 12 s 12; 2001 c 7 s 76; 2004 c 206 s 52*

469.302 DESIGNATIONS OF ENTERPRISE ZONES.

Subdivision 1. **Process.** The commissioner shall designate an area as an enterprise zone if:

(1) the application is made by the governing body of the city as prescribed by section 469.304;

(2) the area is determined by the commissioner to be eligible for designation under section 469.303.

Subd. 2. **Duration.** The designation of an area as an enterprise zone is effective for ten

years after the date of designation.

Subd. 3. **Date of designation.** Designation is effective immediately following approval of the enterprise zone application by the commissioner.

History: *1994 c 587 art 12 s 13*

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 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: *1994 c 587 art 12 s 14; 1996 c 452 s 36; 1998 c 389 art 16 s 24; 1Sp1998 c 1 art 3 s 23; 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.

Subd. 2. **Applications; contents.** The application for designation as an enterprise zone must contain, at a minimum:

(1) verification that the area is eligible for designation pursuant to section 469.303;

(2) identification of the agency or unit of government that will implement the program;

(3) any additional information required by the commissioner; and

(4) any additional information that the municipality considers relevant to the designation of the area as an enterprise zone.

Subd. 3. **Certification.** The governing body must certify to the commissioner that activity within the municipality's enterprise zone will not transfer existing employment from other municipalities within the state.

History: *1994 c 587 art 12 s 15; 2001 c 7 s 77*

469.305 Subdivision 1. [Repealed, 1999 c 223 art 2 s 80]

Subd. 2. [Repealed, 1995 c 256 s 33; 1999 c 223 art 2 s 80]

Subd. 3. [Repealed, 1999 c 223 art 2 s 80]

469.306 [Repealed, 1999 c 223 art 2 s 80]

469.307 [Repealed, 1999 c 223 art 2 s 80]

469.308 Subdivision 1. [Repealed, 1999 c 223 art 2 s 80]

Subd. 2. [Repealed, 1997 c 187 art 3 s 34; 1999 c 223 art 2 s 80]

Subd. 3. [Repealed, 1999 c 223 art 2 s 80]

Subd. 4. [Repealed, 1999 c 223 art 2 s 80]

469.309 RURAL JOB CREATION GRANTS.

Subdivision 1. **Job creation grants.** The commissioner of employment and economic development may approve an incentive grant for an eligible business beginning with calendar year 1995. The maximum grant is $5,000 per eligible employee. The actual grant is based on the following schedule:

$2,000 for each eligible employee with wages greater than or equal to 170 percent and less than 200 percent of the minimum wage;

$3,000 for each eligible employee with wages greater than or equal to 200 percent and less than 250 percent of the minimum wage;

$4,000 for each eligible employee with wages greater than or equal to 250 percent and less than 300 percent of the minimum wage; and

$5,000 for each eligible employee with wages greater than or equal to 300 percent of the minimum wage.

The total grant for an employer is equal to the actual grant multiplied by the number of employees eligible for that grant. For purposes of this section "minimum wage" means the minimum wage that is required by federal law. An eligible business may apply for a rural job creation grant only once for each new job.

Subd. 2. **Eligible business.** An employer eligible for a job creation incentive grant under this section must (1) be located outside the metropolitan area as defined under section 473.121, (2) create at least ten qualifying new jobs in a two-year period, and (3) consist of a for-profit business. For the purposes of this section, a "qualifying new job" is a job that did not exist in Minnesota before May 6, 1994.

Subd. 3. **Eligible employee.** To be eligible for a grant, the employee must be employed full

time by an eligible business at a wage level of not less than 170 percent of the minimum wage at the time the eligible business applies for the grant and must have been employed there at that wage level for a minimum of 12 months. The grant applies only to new jobs created at the eligible business after May 6, 1994.

Subd. 4. **Restrictions.** The incentive grants provided by this section do not apply to racetracks, financial institutions, gambling enterprises, public utilities, or sports, fitness, and health facilities. An employer is not eligible for an incentive grant if the commissioner determines that the position held by the employee for which the business is seeking a grant was transferred from an enterprise conducted by substantially the same business enterprise at another site in the state.

History: *1994 c 587 art 12 s 20; 1995 c 256 s 14; 1Sp2003 c 4 s 1*

469.31 [Repealed, 1999 c 223 art 2 s 80]

JOB OPPORTUNITY BUILDING ZONES

469.310 DEFINITIONS.

Subdivision 1. **Scope.** For purposes of sections 469.310 to 469.320, the following terms have the meanings given.

Subd. 2. **Agricultural processing facility.** "Agricultural processing facility" means one or more facilities or operations that transform, package, sort, or grade livestock or livestock products, agricultural commodities, or plants or plant products into goods that are used for intermediate or final consumption including goods for nonfood use, and surrounding property.

Subd. 3. **Applicant.** "Applicant" means a local government unit or units applying for designation of an area as a job opportunity building zone or a joint powers board, established under section 471.59, acting on behalf of two or more local government units.

Subd. 4. **Commissioner.** "Commissioner" means the commissioner of employment and economic development.

Subd. 5. **Development plan.** "Development plan" means a plan meeting the requirements of section 469.311.

Subd. 6. **Job opportunity building zone or zone.** "Job opportunity building zone" or "zone" means a zone designated by the commissioner under section 469.314, and includes an agricultural processing facility zone.

Subd. 7. **Job opportunity building zone percentage or zone percentage.** "Job opportunity building zone percentage" or "zone percentage" means the following fraction reduced to a percentage:

(1) the numerator of the fraction is:

(i) the ratio of the taxpayer's property factor under section 290.191 located in the zone for the taxable year over the property factor numerator determined under section 290.191, plus

(ii) the ratio of the taxpayer's job opportunity building zone payroll factor under subdivision 8 over the payroll factor numerator determined under section 290.191; and

(2) the denominator of the fraction is two.

When calculating the zone percentage for a business that is part of a unitary business as defined under section 290.17, subdivision 4, the denominator of the payroll and property factors is the Minnesota payroll and property of the unitary business as reported on the combined report under section 290.17, subdivision 4, paragraph (j).

Subd. 8. **Job opportunity building zone payroll factor.** "Job opportunity building zone payroll factor" or "job opportunity building zone payroll" is that portion of the payroll factor under section 290.191 that represents:

(1) wages or salaries paid to an individual for services performed in a job opportunity building zone; or

(2) wages or salaries paid to individuals working from offices within a job opportunity building zone if their employment requires them to work outside the zone and the work is incidental to the work performed by the individual within the zone.

Subd. 9. **Local government unit.** "Local government unit" means a statutory or home rule charter city, county, town, Iron Range resources and rehabilitation agency, regional development commission, or a federally designated economic development district.

Subd. 10. **Person.** "Person" includes an individual, corporation, partnership, limited liability company, association, or any other entity.

Subd. 11. **Qualified business.** (a) A person carrying on a trade or business at a place of business located within a job opportunity building zone is a qualified business for the purposes of sections 469.310 to 469.320 according to the criteria in paragraphs (b) to (f).

(b) A person is a qualified business only on those parcels of land for which the person has entered into a business subsidy agreement, as required under section 469.313, with the appropriate local government unit in which the parcels are located.

(c) Prior to execution of the business subsidy agreement, the local government unit must consider the following factors:

(1) how wages compare to the regional industry average;

(2) the number of jobs that will be provided relative to overall employment in the community;

(3) the economic outlook for the industry the business will engage in;

(4) sales that will be generated from outside the state of Minnesota;

(5) how the business will build on existing regional strengths or diversify the regional economy;

(6) how the business will increase capital investment in the zone; and

(7) any other criteria the commissioner deems necessary.

(d) A person that relocates a trade or business from outside a job opportunity building zone into a zone is not a qualified business unless the business meets all of the requirements of paragraphs (b) and (c) and:

(1) increases full-time employment in the first full year of operation within the job opportunity building zone by a minimum of five jobs or 20 percent, whichever is greater, measured relative to the operations that were relocated and maintains the required level of employment for each year the zone designation applies; and

(2) enters a binding written agreement with the commissioner that:

(i) pledges the business will meet the requirements of clause (1);

(ii) provides for repayment of all tax benefits enumerated under section 469.315 to the business under the procedures in section 469.319, if the requirements of clause (1) are not met for the taxable year or for taxes payable during the year in which the requirements were not met; and

(iii) contains any other terms the commissioner determines appropriate.

(e) The commissioner may waive the requirements under paragraph (d), clause (1), if the commissioner determines that the qualified business will substantially achieve the factors under this subdivision.

(f) A business is not a qualified business if, at its location or locations in the zone, the business is primarily engaged in making retail sales to purchasers who are physically present at the business's zone location.

(g) A qualifying business must pay each employee compensation, including benefits not mandated by law, that on an annualized basis is equal to at least 110 percent of the federal poverty level for a family of four.

(h) A public utility, as defined in section 336B.01, is not a qualified business.

Subd. 12. **Relocates.** (a) "Relocates" means that the trade or business:

(1) ceases one or more operations or functions at another location in Minnesota and begins performing substantially the same operations or functions at a location in a job opportunity building zone; or

(2) reduces employment at another location in Minnesota during a period starting one year before and ending one year after it begins operations in a job opportunity building zone and its employees in the job opportunity building zone are engaged in the same line of business as the employees at the location where it reduced employment.

(b) "Relocate" does not include an expansion by a business that establishes a new facility that does not replace or supplant an existing operation or employment, in whole or in part.

(c) "Trade or business" includes any business entity that is substantially similar in operation or ownership to the business entity seeking to be a qualified business under this section.

Subd. 13. **Relocation payroll percentage.** "Relocation payroll percentage" is a fraction, the numerator of which is the zone payroll of the business for the tax year minus the payroll from the relocated operations in the last full year of operations prior to the relocation, and the denominator of which is the zone payroll of the business for the tax year. The relocation payroll percentage of a business that is not a relocating business is 100 percent.

History: *1Sp2003 c 4 s 1; 1Sp2003 c 21 art 1 s 15; 2005 c 69 art 1 s 21; 1Sp2005 c 1 art 4 s 107; 1Sp2005 c 3 art 7 s 12,13*

469.311 DEVELOPMENT PLAN.

(a) An applicant for designation of a job opportunity building zone must adopt a written development plan for the zone before submitting the application to the commissioner.

(b) The development plan must contain, at least, the following:

(1) a map of the proposed zone that indicates the geographic boundaries of the zone, the total area, and present use and conditions generally of the land and structures within those boundaries;

(2) evidence of community support and commitment from local government, local workforce investment boards, school districts, and other education institutions, business groups, and the public;

(3) a description of the methods proposed to increase economic opportunity and expansion, facilitate infrastructure improvement, reduce the local regulatory burden, and identify job-training opportunities;

(4) current social, economic, and demographic characteristics of the proposed zone and anticipated improvements in education, health, human services, and employment if the zone is created;

(5) a description of anticipated activity in the zone and each subzone, including, but not limited to, industrial use, industrial site reuse, commercial or retail use, and residential use; and

(6) any other information required by the commissioner.

History: *1Sp2003 c 21 art 1 s 16*

469.312 JOB OPPORTUNITY BUILDING ZONES; LIMITATIONS.

Subdivision 1. **Maximum size.** A job opportunity building zone may not exceed 5,000 acres. For a zone designated as an agricultural processing facility zone, the zone also may not exceed the size of a site necessary for the agricultural processing facility, including ancillary operations and space for expansion in the reasonably foreseeable future.

Subd. 2. **Subzones.** The area of a job opportunity building zone may consist of one or more noncontiguous areas or subzones.

Subd. 3. **Outside metropolitan area.** The area of a job opportunity building zone must be located outside of the metropolitan area, as defined in section 473.121, subdivision 2.

Subd. 4. **Border city development zones.** (a) The area of a job opportunity building zone may not include the area of a border city development zone designated under section 469.1731. The city may remove property from a border city development zone contingent upon the area being designated as a job opportunity building zone. Before removing a parcel of property from a border city development zone, the city must obtain the written consent to the removal from each recipient that is located on the parcel and receives incentives under the border city development zone. Consent of any other property owner or taxpayer in the border city development zone is not required.

(b) A city may not provide tax incentives under section 469.1734 to individuals or businesses for operations or activity in a job opportunity building zone.

Subd. 5. **Duration limit.** (a) The maximum duration of a zone is 12 years. The applicant may request a shorter duration. The commissioner may specify a shorter duration, regardless of the requested duration.

(b) The duration limit under this subdivision and the duration of the zone for purposes of allowance of tax incentives described in section 469.315 is extended by three calendar years for each parcel of property that meets the following requirements:

(1) the qualified business operates an ethanol plant, as defined in section 41A.09, on the site that includes the parcel; and

(2) the business subsidy agreement was executed after April 30, 2006.

History: *1Sp2003 c 21 art 1 s 17; 2006 c 281 art 4 s 26*

NOTE: Subdivision 5 was also amended by Laws 2006, chapter 259, article 13, section 10, to read as follows:

"Subd. 5. **Duration limit.** (a) The maximum duration of a zone is 12 years. The applicant may request a shorter duration. The commissioner may specify a shorter duration, regardless of the requested duration.

(b) The duration limit under this subdivision and the duration of the zone for purposes of allowance of tax incentives described in section 469.315 is extended by three calendar years for each parcel of property that meets the following requirements:

(1) the qualified business operates an ethanol plant, as defined in section 41A.09, on the site that includes the parcel; and

(2) the business subsidy agreement was executed after April 30, 2006, and before July 1, 2007."

469.313 APPLICATION FOR DESIGNATION.

Subdivision 1. **Who may apply.** One or more local government units, or a joint powers board under section 471.59, acting on behalf of two or more units, may apply for designation of an area as a job opportunity building zone. All or part of the area proposed for designation as a zone must be located within the boundaries of each of the governmental units. A local government unit may not submit or have submitted on its behalf more than one application for designation of a job opportunity building zone.

Subd. 2. **Application content.** The application must include:

(1) a development plan meeting the requirements of section 469.311;

(2) the proposed duration of the zone, not to exceed 12 years;

(3) a resolution or ordinance adopted by each of the cities or towns and the counties in which the zone is located, agreeing to provide all of the local tax exemptions provided under section 469.315;

(4) if the proposed zone includes area in a border city development zone, written consent to removal of the property from the border city development zone to the extent required by section 469.312, subdivision 4;

(5) an agreement by the applicant to treat incentives provided under the zone designation as business subsidies under sections 116J.993 to 116J.995 and to comply with the requirements of that law; and

(6) supporting evidence to allow the commissioner to evaluate the application under the criteria in section 469.314.

History: *1Sp2003 c 21 art 1 s 18*

469.314 DESIGNATION OF JOB OPPORTUNITY BUILDING ZONES.

Subdivision 1. **Commissioner to designate.** (a) The commissioner, in consultation with the commissioner of revenue, shall designate not more than ten job opportunity building zones. In making the designations, the commissioner shall consider need and likelihood of success

to yield the most economic development and revitalization of economically distressed rural areas of Minnesota.

(b) In addition to the designations under paragraph (a), the commissioner may, in consultation with the commissioners of agriculture and revenue, designate up to five agricultural processing facility zones.

(c) The commissioner may, upon designation of a zone, modify the development plan, including the boundaries of the zone or subzones, if in the commissioner's opinion a modified plan would better meet the objectives of the job opportunity building zone program. The commissioner shall notify the applicant of the modification and provide a statement of the reasons for the modifications.

Subd. 2. **Need indicators.** (a) In evaluating applications to determine the need for designation of a job opportunity building zone, the commissioner shall consider the following factors as indicators of need:

(1) the percentage of the population that is below 200 percent of the poverty rate, compared with the state as a whole;

(2) the extent to which the area's average weekly wage is significantly lower than the state average weekly wage;

(3) the amount of property in or near the proposed zone that is deteriorated or underutilized;

(4) the extent to which the median sale price of housing units in the area is below the state median;

(5) the extent to which the median household income of the area is lower than the state median household income;

(6) the extent to which the area experienced a population loss during the 20-year period ending the year before the application is made;

(7) the extent to which an area has experienced sudden or severe job loss as a result of closing of businesses or other employers;

(8) the extent to which property in the area would remain underdeveloped or nonperforming due to physical characteristics;

(9) the extent to which the area has substantial real property with adequate infrastructure and energy to support new or expanded development; and

(10) the extent to which the business startup or expansion rates are significantly lower than the respective rate for the state.

(b) In applying the need indicators, the best available data should be used. If reported data are not available for the proposed zone, data for the smallest area that is available and includes the

area of the proposed zone may be used. The commissioner may require applicants to provide data to demonstrate how the area meets one or more of the indicators of need.

Subd. 3. **Success indicators.** In determining the likelihood of success of a proposed zone, the commissioner shall consider:

(1) the strength and viability of the proposed development goals, objectives, and strategies in the development plan;

(2) whether the development plan is creative and innovative in comparison to other applications;

(3) local public and private commitment to development of the proposed zone and the potential cooperation of surrounding communities;

(4) existing resources available to the proposed zone;

(5) how the designation of the zone would relate to other economic and community development projects and to regional initiatives or programs;

(6) how the regulatory burden will be eased for businesses operating in the proposed zone;

(7) proposals to establish and link job creation and job training; and

(8) the extent to which the development is directed at encouraging and that designation of the zone is likely to result in the creation of high-paying jobs.

Subd. 4. **Designation schedule.** (a) The schedule in paragraphs (b) to (f) applies to the designation of job opportunity building zones.

(b) The commissioner shall publish the form for applications and any procedural, form, or content requirements for applications by no later than August 1, 2003. The commissioner may publish these requirements on the Internet, in the State Register, or by any other means the commissioner determines appropriate to disseminate the information to potential applicants for designation.

(c) Applications must be submitted by October 15, 2003.

(d) The commissioner shall designate the zones by no later than December 31, 2003.

(e) The designation of the zones takes effect January 1, 2004.

(f) The commissioner may reserve one or more of the ten authorized zones for a second round of designations in calendar year 2004. If the commissioner chooses to reserve designations for this purpose, the commissioner shall establish the schedule for the second round of designations, notwithstanding the dates in paragraphs (c), (d), and (e). The commissioner shall allow a period of at least 90 days for submission of applications after notification of the second round. A zone designated in the second round takes effect on January 1, 2005.

Subd. 5. **Geographic distribution.** The commissioner shall have as a goal the geographic distribution of zones around the state.

Subd. 6. **Rulemaking exemption.** The commissioner's actions in establishing procedures, requirements, and making determinations to administer sections 469.310 to 469.320 are not a rule for purposes of chapter 14 and are not subject to the Administrative Procedure Act contained in chapter 14 and are not subject to section 14.386.

History: *1Sp2003 c 21 art 1 s 19*

469.315 TAX INCENTIVES AVAILABLE IN ZONES.

Qualified businesses that operate in a job opportunity building zone, individuals who invest in a qualified business that operates in a job opportunity building zone, and property located in a job opportunity building zone qualify for:

(1) exemption from individual income taxes as provided under section 469.316;

(2) exemption from corporate franchise taxes as provided under section 469.317;

(3) exemption from the state sales and use tax and any local sales and use taxes on qualifying purchases as provided in section 297A.68, subdivision 37;

(4) exemption from the state sales tax on motor vehicles and any local sales tax on motor vehicles as provided under section 297B.03;

(5) exemption from the property tax as provided in section 272.02, subdivision 64;

(6) exemption from the wind energy production tax under section 272.029, subdivision 7; and

(7) the jobs credit allowed under section 469.318.

History: *1Sp2003 c 21 art 1 s 20*

469.316 INDIVIDUAL INCOME TAX EXEMPTION.

Subdivision 1. **Application.** An individual, estate, or trust operating a trade or business in a job opportunity building zone, and an individual, estate, or trust making a qualifying investment in a qualified business operating in a job opportunity building zone qualifies for the exemptions from taxes imposed under chapter 290, as provided in this section. The exemptions provided under this section apply only to the extent that the income otherwise would be taxable under chapter 290. Subtractions under this section from federal taxable income, alternative minimum taxable income, or any other base subject to tax are limited to the amount that otherwise would be included in the tax base absent the exemption under this section. This section applies only to taxable years beginning during the duration of the job opportunity building zone.

Subd. 2. **Rents.** An individual, estate, or trust is exempt from the taxes imposed under

chapter 290 on net rents derived from real or tangible personal property used by a qualified business and located in a zone for a taxable year in which the zone was designated a job opportunity building zone. If tangible personal property was used both within and outside of the zone by the qualified business, the exemption amount for the net rental income must be multiplied by a fraction, the numerator of which is the number of days the property was used in the zone and the denominator of which is the total days the property is rented by the qualified business.

Subd. 3. **Business income.** An individual, estate, or trust is exempt from the taxes imposed under chapter 290 on net income from the operation of a qualified business in a job opportunity building zone. If the trade or business is carried on within and without the zone and the individual is not a resident of Minnesota, or the taxpayer is an estate or trust, the exemption must be apportioned based on the zone percentage and the relocation payroll percentage for the taxable year. If the trade or business is carried on within and without the zone and the individual is a resident of Minnesota, the exemption must be apportioned based on the zone percentage and the relocation payroll percentage for the taxable year, except the ratios under section 469.310, subdivision 7, clause (1), items (i) and (ii), must use the denominators of the property and payroll factors determined under section 290.191. No subtraction is allowed under this section in excess of 20 percent of the sum of the job opportunity building zone payroll and the adjusted basis of the property at the time that the property is first used in the job opportunity building zone by the business.

Subd. 4. **Capital gains.** (a) An individual, estate, or trust is exempt from the taxes imposed under chapter 290 on:

(1) net gain derived on a sale or exchange of real property located in the zone and used by a qualified business. If the property was held by the individual, estate, or trust during a period when the zone was not designated, the gain must be prorated based on the percentage of time, measured in calendar days, that the real property was held by the individual, estate, or trust during the period the zone designation was in effect to the total period of time the real property was held by the individual;

(2) net gain derived on a sale or exchange of tangible personal property used by a qualified business in the zone. If the property was held by the individual, estate, or trust during a period when the zone was not designated, the gain must be prorated based on the percentage of time, measured in calendar days, that the property was held by the individual, estate, or trust during the period the zone designation was in effect to the total period of time the property was held by the individual. If the tangible personal property was used outside of the zone during the period of the zone's designation, the exemption must be multiplied by a fraction, the numerator of which is the number of days the property was used in the zone during the time of the designation

and the denominator of which is the total days the property was held during the time of the designation; and

(3) net gain derived on a sale of an ownership interest in a qualified business operating in the job opportunity building zone, meeting the requirements of paragraph (b). The exemption on the gain must be multiplied by the zone percentage of the business for the taxable year prior to the sale.

(b) A qualified business meets the requirements of paragraph (a), clause (3), if it is a corporation, an S corporation, or a partnership, and for the taxable year its job opportunity building zone percentage exceeds 25 percent. For purposes of paragraph (a), clause (3), the zone percentage must be calculated by modifying the ratios under section 469.310, subdivision 7, clause (1), items (i) and (ii), to use the denominators of the property and payroll factors determined under section 290.191. Upon the request of an individual, estate, or trust holding an ownership interest in the entity, the entity must certify to the owner, in writing, the job opportunity building zone percentage needed to determine the exemption.

History: *1Sp2003 c 21 art 1 s 21; 1Sp2005 c 3 art 7 s 14*

469.317 CORPORATE FRANCHISE TAX EXEMPTION.

(a) A qualified business is exempt from taxation under section 290.02, the alternative minimum tax under section 290.0921, and the minimum fee under section 290.0922, on the portion of its income attributable to operations within the zone. This exemption is determined as follows:

(1) for purposes of the tax imposed under section 290.02, by multiplying its taxable net income by its zone percentage and by its relocation payroll percentage and subtracting the result in determining taxable income;

(2) for purposes of the alternative minimum tax under section 290.0921, by multiplying its alternative minimum taxable income by its zone percentage and by its relocation payroll percentage and reducing alternative minimum taxable income by this amount; and

(3) for purposes of the minimum fee under section 290.0922, by excluding property and payroll in the zone from the computations of the fee or by exempting the entity under section 290.0922, subdivision 2, clause (7).

(b) No subtraction is allowed under this section in excess of 20 percent of the sum of the corporation's job opportunity building zone payroll and the adjusted basis of the property at the time that the property is first used in the job opportunity building zone by the corporation.

(c) This section applies only to taxable years beginning during the duration of the job opportunity building zone.

History: *1Sp2003 c 21 art 1 s 22; 1Sp2005 c 3 art 7 s 15*

469.318 JOBS CREDIT.

Subdivision 1. **Credit allowed.** A qualified business is allowed a credit against the taxes imposed under chapter 290. The credit equals seven percent of the:

(1) lesser of:

(i) zone payroll for the taxable year, less the zone payroll for the base year; or

(ii) total Minnesota payroll for the taxable year, less total Minnesota payroll for the base year; minus

(2) $30,000 multiplied by (the number of full-time equivalent employees that the qualified business employs in the job opportunity building zone for the taxable year, minus the number of full-time equivalent employees the business employed in the zone in the base year, but not less than zero).

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

(b) "Base year" means the taxable year beginning during the calendar year prior to the calendar year in which the zone designation took effect.

(c) "Full-time equivalent employees" means the equivalent of annualized expected hours of work equal to 2,080 hours.

(d) "Minnesota payroll" means the wages or salaries attributed to Minnesota under section 290.191, subdivision 12, for the qualified business or the unitary business of which the qualified business is a part, whichever is greater.

(e) "Zone payroll" means wages or salaries used to determine the zone payroll factor for the qualified business, less the amount of compensation attributable to any employee that exceeds $100,000.

Subd. 3. **Inflation adjustment.** For taxable years beginning after December 31, 2004, the dollar amounts in subdivision 1, clause (2), and subdivision 2, paragraph (e), are annually adjusted for inflation. The commissioner of revenue shall adjust the amounts by the percentage determined under section 290.06, subdivision 2d, for the taxable year.

Subd. 4. **Refundable.** If the amount of the credit exceeds the liability for tax under chapter 290, the commissioner of revenue shall refund the excess to the qualified business.

Subd. 5. **Appropriation.** An amount sufficient to pay the refunds authorized by this section is appropriated to the commissioner of revenue from the general fund.

History: *1Sp2003 c 21 art 1 s 23*

469.319 REPAYMENT OF TAX BENEFITS BY BUSINESSES THAT NO LONGER OPERATE IN A ZONE.

Subdivision 1. **Repayment obligation.** A business must repay the total tax benefits listed in section 469.315 received during the two years immediately before it (1) ceased to perform a substantial level of activities described in the business subsidy agreement, or (2) otherwise ceased to be a qualified business, other than those subject to the provisions of section 469.3191.

Subd. 1a. **Repayment obligation of businesses not operating in zone.** Persons that receive benefits without operating a business in a zone are subject to repayment under this section if the business for which those benefits relate is subject to repayment under this section. Such persons are deemed to have ceased performing in the zone on the same day that the qualified business for which the benefits relate becomes subject to repayment under subdivision 1.

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

(b) "Business" means any person that received tax benefits enumerated in section 469.315.

(c) "Commissioner" means the commissioner of revenue.

(d) "Persons that receive benefits without operating a business in a zone" means persons that claim benefits under section 469.316, subdivision 2 or 4, as well as persons that own property leased by a qualified business and are eligible for benefits under section 272.02, subdivision 64, or 297A.68, subdivision 37, paragraph (b).

Subd. 3. **Disposition of repayment.** The repayment must be paid to the state to the extent it represents a state tax reduction and to the county to the extent it represents a property tax reduction. Any amount repaid to the state must be deposited in the general fund. Any amount repaid to the county for the property tax exemption must be distributed to the taxing authorities with authority to levy taxes in the zone in the same manner provided for distribution of payment of delinquent property taxes. Any repayment of local sales taxes must be repaid to the commissioner for distribution to the city or county imposing the local sales tax.

Subd. 4. **Repayment procedures.** (a) For the repayment of taxes imposed under chapter 290 or 297A or local taxes collected pursuant to section 297A.99, a business must file an amended return with the commissioner of revenue and pay any taxes required to be repaid within 30 days after becoming subject to repayment under this section. The amount required to be repaid is determined by calculating the tax for the period or periods for which repayment is required without regard to the exemptions and credits allowed under section 469.315.

(b) For the repayment of taxes imposed under chapter 297B, a business must pay any taxes required to be repaid to the motor vehicle registrar, as agent for the commissioner of revenue, within 30 days after becoming subject to repayment under this section.

(c) For the repayment of property taxes, the county auditor shall prepare a tax statement for the business, applying the applicable tax extension rates for each payable year and provide a copy to the business and to the taxpayer of record. The business must pay the taxes to the county treasurer within 30 days after receipt of the tax statement. The business or the taxpayer of record may appeal the valuation and determination of the property tax to the Tax Court within 30 days after receipt of the tax statement.

(d) The provisions of chapters 270C and 289A relating to the commissioner's authority to audit, assess, and collect the tax and to hear appeals are applicable to the repayment required under paragraphs (a) and (b). The commissioner may impose civil penalties as provided in chapter 289A, and the additional tax and penalties are subject to interest at the rate provided in section 270C.40, from 30 days after becoming subject to repayment under this section until the date the tax is paid.

(e) If a property tax is not repaid under paragraph (c), the county treasurer shall add the amount required to be repaid to the property taxes assessed against the property for payment in the year following the year in which the auditor provided the statement under paragraph (c).

(f) For determining the tax required to be repaid, a reduction of a state or local sales or use tax is deemed to have been received on the date that the good or service was purchased or first put to a taxable use. In the case of an income tax or franchise tax, including the credit payable under section 469.318, a reduction of tax is deemed to have been received for the two most recent tax years that have ended prior to the date that the business became subject to repayment under this section. In the case of a property tax, a reduction of tax is deemed to have been received for the taxes payable in the year that the business became subject to repayment under this section and for the taxes payable in the prior year.

(g) The commissioner may assess the repayment of taxes under paragraph (d) any time within two years after the business becomes subject to repayment under subdivision 1, or within any period of limitations for the assessment of tax under section 289A.38, whichever period is later. The county auditor may send the statement under paragraph (c) any time within three years after the business becomes subject to repayment under subdivision 1.

(h) A business is not entitled to any income tax or franchise tax benefits, including refundable credits, for any part of the year in which the business becomes subject to repayment under this section nor for any year thereafter. Property is not exempt from tax under section 272.02, subdivision 64, for any taxes payable in the year following the year in which the property became subject to repayment under this section nor for any year thereafter. A business is not eligible for any sales tax benefits beginning with goods or services purchased or first put to a taxable use on the day that the business becomes subject to repayment under this section.

Subd. 5. **Waiver authority.** (a) The commissioner may waive all or part of a repayment required under subdivision 1, if the commissioner, in consultation with the commissioner of

employment and economic development and appropriate officials from the local government units in which the qualified business is located, determines that requiring repayment of the tax is not in the best interest of the state or the local government units and the business ceased operating as a result of circumstances beyond its control including, but not limited to:

(1) a natural disaster;

(2) unforeseen industry trends; or

(3) loss of a major supplier or customer.

(b)(1) The commissioner shall waive repayment required under subdivision 1a if the commissioner has waived repayment by the operating business under subdivision 1, unless the person that received benefits without having to operate a business in the zone was a contributing factor in the qualified business becoming subject to repayment under subdivision 1;

(2) the commissioner shall waive the repayment required under subdivision 1a, even if the repayment has not been waived for the operating business if:

(i) the person that received benefits without having to operate a business in the zone and the business that operated in the zone are not related parties as defined in section 267(b) of the Internal Revenue Code of 1986, as amended through December 31, 2007; and

(ii) actions of the person were not a contributing factor in the qualified business becoming subject to repayment under subdivision 1.

Subd. 6. **Reconciliation.** Where this section is inconsistent with section 116J.994, subdivision 3, paragraph (e), or 6, or any other provisions of sections 116J.993 to 116J.995, this section prevails.

History: *1Sp2003 c 4 s 1; 1Sp2003 c 21 art 1 s 24; 2005 c 151 art 2 s 17; 1Sp2005 c 1 art 4 s 108,109; 2008 c 366 art 5 s 13*

469.3191 BREACH OF AGREEMENTS BY BUSINESSES THAT CONTINUE TO OPERATE IN ZONE.

(a) A "business in violation of its business subsidy agreement but not subject to section 469.319" means a business that is operating in violation of the business subsidy agreement but maintains a level of operations in the zone that does not subject it to the repayment provisions of section 469.319, subdivision 1, clause (1).

(b) A business described in paragraph (a) that does not sign a new or amended business subsidy agreement, as authorized under paragraph (h), is subject to repayment of benefits under section 469.319 from the day that it ceases to perform in the zone a substantial level of activities described in the business subsidy agreement.

(c) A business described in paragraph (a) ceases being a qualified business after the last day that it has to meet the goals stated in the agreement.

(d) A business is not entitled to any income tax or franchise tax benefits, including refundable credits, for any part of the year in which the business is no longer a qualified business under paragraph (c), and thereafter. A business is not eligible for sales tax benefits beginning with goods or services purchased or put to a taxable use on the day that it is no longer a qualified business under paragraph (c). Property is not exempt from tax under section 272.02, subdivision 64, for any taxes payable in the year following the year in which the business is no longer a qualified business under paragraph (c), and thereafter.

(e) A business described in paragraph (a) that wants to resume eligibility for benefits under section 469.315 must request that the commissioner of employment and economic development determine the length of time that the business is ineligible for benefits. The commissioner shall determine the length of ineligibility by applying the proportionate level of performance under the agreement to the total duration of the zone as measured from the date that the business subsidy agreement was executed. The length of time must not be less than one full year for each tax benefit listed in section 469.315. The commissioner of employment and economic development and the appropriate local government officials shall consult with the commissioner of revenue to ensure that the period of ineligibility includes at least one full year of benefits for each tax.

(f) The length of ineligibility determined under paragraph (e) must be applied by reducing the zone duration for the property by the duration of the ineligibility.

(g) The zone duration of property that has been adjusted under paragraph (f) must not be altered again to permit the business additional benefits under section 469.315.

(h) A business described in paragraph (a) becomes eligible for benefits available under section 469.315 by entering into a new or amended business subsidy agreement with the appropriate local government unit. The new or amended agreement must cover a period beginning from the date of ineligibility under the original business subsidy agreement, through the zone duration determined by the commissioner under paragraph (f). No exemption of property taxes under section 272.02, subdivision 64, is available under the new or amended agreement for property taxes due or paid before the date of the final execution of the new or amended agreement, but unpaid taxes due after that date need not be paid.

(i) A business that violates the terms of an agreement authorized under paragraph (h) is permanently barred from seeking benefits under section 469.315 and is subject to the repayment provisions under section 469.319 effective from the day that the business ceases to operate as a qualified business in the zone under the second agreement.

History: *2008 c 366 art 5 s 14*

469.3192 PROHIBITION AGAINST AMENDMENTS TO BUSINESS SUBSIDY AGREEMENT.

Except as authorized under section 469.3191, under no circumstance shall terms of any agreement required as a condition for eligibility for benefits listed under section 469.315 be amended to change job creation, job retention, or wage goals included in the agreement.

History: *2008 c 366 art 5 s 15*

469.3193 CERTIFICATION OF CONTINUING ELIGIBILITY FOR JOBZ BENEFITS.

(a) By December 1 of each year, every qualified business must certify to the commissioner of revenue, on a form prescribed by the commissioner of revenue, whether it is in compliance with any agreement required as a condition for eligibility for benefits listed under section 469.315. A business that fails to submit the certification, or any business, including those still operating in the zone, that submits a certification that the commissioner of revenue later determines materially misrepresents the business's compliance with the agreement, is subject to the repayment provisions under section 469.319 from January 1 of the year in which the report is due or the date that the business became subject to section 469.319, whichever is earlier. Any such business is permanently barred from obtaining benefits under section 469.315. For purposes of this section, the bar applies to an entity and also applies to any individuals or entities that have an ownership interest of at least 20 percent of the entity.

(b) Before the sanctions under paragraph (a) apply to a business that fails to submit the certification, the commissioner of revenue shall send notice to the business, demanding that the certification be submitted within 30 days and advising the business of the consequences for failing to do so. The commissioner of revenue shall notify the commissioner of employment and economic development and the appropriate job opportunity subzone administrator whenever notice is sent to a business under this paragraph.

(c) The certification required under this section is public.

(d) The commissioner of revenue shall promptly notify the commissioner of employment and economic development of all businesses that certify that they are not in compliance with the terms of their business subsidy agreement and all businesses that fail to file the certification.

History: *2008 c 366 art 5 s 16*

469.320 ZONE PERFORMANCE; REMEDIES.

Subdivision 1. **Reporting requirement.** An applicant receiving designation of a job opportunity building zone under section 469.314 must annually report to the commissioner on its progress in meeting the zone performance goals under the development plan for the zone and the applicant's compliance with the business subsidy law under sections 116J.993 to 116J.995.

Subd. 2. **Procedures.** For reports required by subdivision 1, the commissioner may prescribe:

(1) the required time or times by which the reports must be filed;

(2) the form of the report; and

(3) the information required to be included in the report.

Subd. 3. **Remedies.** If the commissioner determines, based on a report filed under subdivision 1 or other available information, that a zone or subzone is failing to meet its performance goals, the commissioner may take any actions the commissioner determines appropriate, including modification of the boundaries of the zone or a subzone or termination of the zone or a subzone. Before taking any action, the commissioner shall consult with the applicant and the affected local government units, including notifying them of the proposed actions to be taken. The applicant may appeal the commissioner's order under the contested case procedures of chapter 14.

Subd. 4. **Existing businesses.** (a) An action to remove area from a zone or to terminate a zone under this section does not apply to:

(1) the property tax on improvements constructed before the first January 2 following publication of the commissioner's order;

(2) sales tax on purchases made before the first day of the next calendar month beginning at least 30 days after publication of the commissioner's order; and

(3) individual income tax or corporate franchise tax attributable to a facility that was in operation before the publication of the commissioner's order.

(b) The tax exemptions specified in paragraph (a) terminate on the date on which the zone expires under the original designation.

History: *1Sp2003 c 21 art 1 s 25; 1Sp2005 c 1 art 4 s 110*

469.3201 STATE AUDITOR; AUDITS OF JOB OPPORTUNITY BUILDING ZONES AND BUSINESS SUBSIDY AGREEMENTS.

The Office of the State Auditor must annually audit the creation and operation of all job opportunity building zones and business subsidy agreements entered into under Minnesota Statutes, sections 469.310 to 469.320. To the extent necessary to perform this audit, the state auditor may request from the commissioner of revenue tax return information of taxpayers who are eligible to receive tax benefits authorized under section 469.315. To the extent necessary to perform this audit, the state auditor may request from the commissioner of employment and economic development wage detail report information required under section 268.044 of taxpayers eligible to receive tax benefits authorized under section 469.315.

History: *1Sp2005 c 3 art 7 s 19 subd 2; 2008 c 366 art 5 s 17*

INTERNATIONAL ECONOMIC DEVELOPMENT ZONE

469.321 DEFINITIONS.

Subdivision 1. **Scope.** For purposes of sections 469.321 to 469.329, the following terms have the meanings given.

Subd. 2. **Foreign trade zone.** "Foreign trade zone" means a foreign trade zone designated pursuant to United States Code, title 19, section 81a, for the right to use the powers provided in United States Code, title 19, sections 81a to 81u, or a subzone authorized by the foreign trade zone.

Subd. 3. **Foreign trade zone authority.** "Foreign trade zone authority" means the Greater Metropolitan Foreign Trade Zone Commission number 119, a joint powers authority created by the county of Hennepin, the cities of Minneapolis and Bloomington, and the Metropolitan Airports Commission, under the authority of section 469.059, 469.101, or 471.59, and includes any other political subdivisions that enter into the authority after its creation, as well as the county in which the zone is located. Notwithstanding section 471.59, the members of the authority are not required to have separate authority to establish or operate a foreign trade zone.

Subd. 4. **International economic development zone or zone.** An "international economic development zone" or "zone" is a zone so designated under section 469.322.

Subd. 5. **Person.** "Person" includes an individual, corporation, partnership, limited liability company, association, or any other entity.

Subd. 6. **Qualified business.** "Qualified business" means a person who has signed a business subsidy agreement as required under sections 116J.993 to 116J.995 and 469.323, subdivision 4, carrying on a trade or business at a place of business located within the international economic development zone that is:

(1)(i) engaged in the furtherance of international export or import of goods as a freight forwarder; and (ii) certified by the foreign trade zone authority as a trade or business that furthers the purpose of developing international distribution capacity and capability; or

(2) the owner or operator of a regional distribution center.

Subd. 7. **Regional distribution center.** A "regional distribution center" is a distribution center developed within a foreign trade zone. The regional distribution center must have as its primary purpose, the facilitation of the gathering of freight for the purpose of centralizing the functions necessary for the shipment of freight in international commerce, including, but not limited to, security and customs functions.

Subd. 8. **International economic development zone percentage or zone percentage.**

"International economic development zone percentage" or "zone percentage" means the following fraction reduced to a percentage:

(1) the numerator of the fraction is:

(i) the ratio of the taxpayer's property factor under section 290.191 located in the zone for the taxable year which is land, buildings, machinery and equipment, inventories, and other tangible personal property that is a regional distribution center or is used in the furtherance of the taxpayer's freight forwarding operations over the property factor numerator determined under section 290.191, plus

(ii) the ratio of the taxpayer's international economic development zone payroll factor under subdivision 9 over the payroll factor numerator determined under section 290.191; and

(2) the denominator of the fraction is two.

When calculating the zone percentage for a business that is part of a unitary business as defined under section 290.17, subdivision 4, the denominator of the payroll and property factors is the Minnesota payroll and property of the unitary business as reported on the combined report under section 290.17, subdivision 4, paragraph (j).

Subd. 9. **International economic development zone payroll factor or international economic development zone payroll.** "International economic development zone payroll factor" or "international economic development zone payroll" is that portion of the payroll factor under section 290.191 used to operate a regional distribution center, or used in the furtherance of the taxpayer's freight forwarding operations that represents:

(1) wages or salaries paid to an individual for services performed in the international economic development zone; or

(2) wages or salaries paid to individuals working from offices within the international economic development zone, if their employment requires them to work outside the zone and the work is incidental to the work performed by the individual within the zone. However, in no case does zone payroll include wages paid for work performed outside the zone of an employee who performs more than ten percent of total services for the employer outside the zone.

Subd. 10. **Freight forwarder.** "Freight forwarder" is a business that, for compensation, ensures that goods produced or sold by another business move from point of origin to point of destination.

History: *1Sp2005 c 3 art 10 s 13; 2007 c 13 art 3 s 25*

469.3215 APPLICATION FOR DESIGNATION.

Subdivision 1. **Who may apply.** One or more local government units, or a joint powers board under section 471.59, acting on behalf of two or more units, may apply for designation

of an area as an international economic development zone. All or part of the area proposed for designation as a zone must be located within the boundaries of each of the governmental units. A local government unit may not submit or have submitted on its behalf more than one application for designation of an international economic development zone.

Subd. 2. **Application content.** (a) The application must include:

(1) a resolution or ordinance adopted by each of the cities or towns and the counties in which the zone is located, agreeing to provide all of the local tax exemptions provided under section 469.315;

(2) an agreement by the applicant to treat incentives provided under the zone designation as business subsidies under sections 116J.993 to 116J.995 and to comply with the requirements of that law; and

(3) supporting evidence to allow the authority to evaluate the application.

(b) Applications must be submitted to the authority no later than December 31, 2005.

History: *1Sp2005 c 3 art 10 s 14*

469.322 DESIGNATION OF INTERNATIONAL ECONOMIC DEVELOPMENT ZONE.

(a) An area designated as a foreign trade zone may be designated by the foreign trade zone authority as an international economic development zone if within the zone a regional distribution center is being developed pursuant to section 469.323. The zone must consist of contiguous area of not less than 500 acres and not more than 1,000 acres. The designation authority under this section is limited to one zone.

(b) In making the designation, the foreign trade zone authority, in consultation with the Minnesota Department of Transportation and the Metropolitan Council, shall consider access to major transportation routes, consistency with current state transportation and air cargo planning, adequacy of the size of the site, access to airport facilities, present and future capacity at the designated airport, the capability to meet integrated present and future air cargo, security, and inspection services, and access to other infrastructure and financial incentives. The border of the international economic development zone must be no more than 60 miles distant or 90 minutes drive time from the border of the Minneapolis-St. Paul International Airport.

(c) Before final designation of the zone, the foreign trade zone authority, in consultation with the applicant, must conduct a transportation impact study based on the regional model and utilizing traffic forecasting and assignments. The results must be used to evaluate the effects of the proposed use on the transportation system and identify any needed improvements. If the site is in the metropolitan area the study must also evaluate the effect of the transportation impacts on the Metropolitan Transportation System plan as well as the comprehensive plans of the municipalities that would be affected. The authority shall provide copies of the study to the legislature under

section 3.195 and to the chairs of the committees with jurisdiction over transportation and economic development. The applicant must pay the cost of the study.

(d) Final zone designation must be made by June 30, 2008.

(e) Duration of the zone is a 12-year period beginning on January 1, 2010.

History: *1Sp2005 c 3 art 10 s 15; 2006 c 259 art 13 s 11*

469.323 FOREIGN TRADE ZONE AUTHORITY POWERS.

Subdivision 1. **Development of regional distribution center.** The foreign trade zone authority is responsible for creating and implementing a development plan for the regional distribution center. The regional distribution center must be developed with the purpose of expanding, on a regional basis, international distribution capacity and capability. The foreign trade zone authority shall consult only with municipalities that have indicated to the authority an interest in locating the international economic development zone within their boundaries, as well as interested businesses, potential financiers, and appropriate state and federal agencies.

Subd. 2. **Business plan.** Before designation of an international economic development zone under section 469.322, the governing body of the foreign trade zone authority shall prepare a business plan. The findings of the business plan shall be presented to the legislature pursuant to section 3.195. Copies of the business plan shall be provided to the chairs of committees with jurisdiction over transportation and economic development. The plan must include an analysis of the economic feasibility of the regional distribution center once it becomes operational and of the operations of freight forwarders and other businesses that choose to locate within the boundaries of the zone. The analysis must provide profitability models that:

(1) include the benefits of the incentives;

(2) estimate the amount of time needed to achieve profitability; and

(3) analyze the length of time incentives will be necessary to the economic viability of the regional distribution center.

If the governing body of the foreign trade authority determines that the models do not establish the economic feasibility of the project, the regional distribution center does not meet the development requirements of this section and section 469.322.

Subd. 3. **Port authority powers.** The governing body of the foreign trade zone authority may establish a port authority that has the same powers as a port authority established under section 469.049. If the foreign trade zone authority establishes a port authority, the governing body of the foreign trade zone authority may exercise all powers granted to a city by sections 469.048 to 469.068 within the area of the international economic development zone, except it may not impose or request imposition of a property tax levy under section 469.053 by any city.

Subd. 4. **Business subsidy law.** Tax exemptions and job credits provided under this section are business subsidies and the foreign trade zone authority is the local government agency for the purpose of sections 116J.871 and 116J.993 to 116J.995.

History: *1Sp2005 c 3 art 10 s 16; 2006 c 259 art 13 s 12*

469.324 TAX INCENTIVES IN INTERNATIONAL ECONOMIC DEVELOPMENT ZONE.

Qualified businesses that operate in an international economic development zone, individuals who invest in a regional distribution center or qualified businesses that operate in an international economic development zone, and property located in an international economic development zone qualify for:

(1) exemption from individual income taxes as provided under section 469.325;

(2) exemption from corporate franchise taxes as provided under section 469.326;

(3) exemption from the state sales and use tax and any local sales and use taxes on qualifying purchases as provided in section 297A.68, subdivision 41;

(4) exemption from the property tax as provided in section 272.02, subdivision 68; and

(5) the jobs credit allowed under section 469.327.

History: *1Sp2005 c 3 art 10 s 17*

469.325 INDIVIDUAL INCOME TAX EXEMPTION.

Subdivision 1. **Application.** An individual, estate, or trust operating a trade or business in the international economic development zone, and an individual making a qualifying investment in a qualified business operating in the international economic development zone, qualifies for the exemptions from taxes imposed under chapter 290, as provided in this section. The exemptions provided under this section apply only to the extent that the income otherwise would be taxable under chapter 290. Subtractions under this section from federal taxable income, alternative minimum taxable income, or any other base subject to tax are limited to the amount that otherwise would be included in the tax base absent the exemption under this section. This section applies only to tax years beginning during the duration of the zone.

Subd. 2. **Business income.** An individual, estate, or trust is exempt from the taxes imposed under chapter 290 on net income from the operation of a qualified business in the international economic development zone. If the trade or business is carried on within and outside of the zone and the individual is not a resident of Minnesota, the exemption must be apportioned based on the zone percentage for the taxable year. If the trade or business is carried on within or outside of the zone and the individual is a resident of Minnesota, the exemption must be apportioned based on the zone percentage for the taxable year, except the ratios under section 469.321, subdivision

8, clause (1), items (i) and (ii), must use the denominators of the property and payroll factors determined under section 290.191. No subtraction is allowed under this section in excess of 20 percent of the sum of the international economic development zone payroll and the adjusted basis of the property at the time that the property is first used in the international economic development zone by the business.

History: *1Sp2005 c 3 art 10 s 18*

469.326 CORPORATE FRANCHISE TAX EXEMPTION.

(a) A qualified business is exempt from taxation under section 290.02, the alternative minimum tax under section 290.0921, and the minimum fee under section 290.0922, on the portion of its income attributable to operations within the international economic development zone. This exemption is determined as follows:

(1) for purposes of the tax imposed under section 290.02, by multiplying its taxable net income by its zone percentage and subtracting the result in determining taxable income;

(2) for purposes of the alternative minimum tax under section 290.0921, by multiplying its alternative minimum taxable income by its zone percentage and reducing alternative minimum taxable income by this amount; and

(3) for purposes of the minimum fee under section 290.0922, by excluding property and payroll in the zone from the computations of the fee or by exempting the entity under section 290.0922, subdivision 2, clause (8).

(b) No subtraction is allowed under this section in excess of 20 percent of the sum of the corporation's international economic development zone payroll and the adjusted basis of the zone property at the time that the property is first used in the international economic development zone by the corporation.

(c) This section applies only to tax years beginning during the duration of the international economic development zone.

History: *1Sp2005 c 3 art 10 s 19*

469.327 JOBS CREDIT.

Subdivision 1. **Credit allowed.** (a) A qualified business is allowed a credit against the taxes imposed under chapter 290. The credit equals seven percent of the:

(1) lesser of:

(i) zone payroll for the taxable year, less the zone payroll for the base year; or

(ii) total Minnesota payroll for the taxable year, less total Minnesota payroll for the base year; minus

(2) $30,000 multiplied by the number of full-time equivalent employees that the qualified business employs in the international economic development zone for the taxable year, minus the number of full-time equivalent employees the business employed in the zone in the base year, but not less than zero.

(b) This section applies only to tax years beginning during the duration of the international economic development zone.

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

(b) "Base year" means the taxable year beginning during the calendar year immediately preceding the calendar year in which the duration of the zone begins under section 469.322, paragraph (d).

(c) "Full-time equivalent employees" means the equivalent of annualized expected hours of work equal to 2,080 hours.

(d) "Minnesota payroll" means the wages or salaries attributed to Minnesota under section 290.191, subdivision 12, for the qualified business or the unitary business of which the qualified business is a part, whichever is greater.

(e) "Zone payroll" means wages or salaries used to determine the zone payroll factor for the qualified business, less the amount of compensation attributable to any employee that exceeds $70,000.

Subd. 3. **Inflation adjustment.** For taxable years beginning after December 31, 2010, the dollar amounts in subdivisions 1, paragraph (a), clause (2); and 2, paragraph (e), are annually adjusted for inflation. The commissioner of revenue shall adjust the amounts by the percentage determined under section 290.06, subdivision 2d, for the taxable year.

Subd. 4. **Refundable.** If the amount of the credit exceeds the liability for tax under chapter 290, the commissioner of revenue shall refund the excess to the qualified business.

Subd. 5. **Appropriation.** An amount sufficient to pay the refunds authorized by this section is appropriated to the commissioner of revenue from the general fund.

History: *1Sp2005 c 3 art 10 s 20; 2006 c 259 art 13 s 13*

469.328 REPAYMENT OF TAX BENEFITS.

Subdivision 1. **Repayment obligation.** A person must repay the amount of the tax reduction received under section 469.324, subdivision 1, clauses (1) to (5), or credit received under section 469.327, during the two years immediately before it ceased to operate in the zone as a qualified business, if the person ceased to operate its facility located within the zone, ceased to be in compliance with the terms of the business subsidy agreement, or otherwise ceases to be or

is not a qualified business.

Subd. 2. **Disposition of repayment.** The repayment must be paid to the state to the extent it represents a state tax reduction and to the county to the extent it represents a property tax reduction. Any amount repaid to the state must be deposited in the general fund. Any amount repaid to the county for the property tax exemption must be distributed to the local governments with authority to levy taxes in the zone in the same manner provided for distribution of payment of delinquent property taxes. Any repayment of local sales or use taxes must be repaid to the jurisdiction imposing the local sales or use tax.

Subd. 3. **Repayment procedures.** (a) For the repayment of taxes imposed under chapter 290 or 297A or local taxes collected pursuant to section 297A.99, a person must file an amended return with the commissioner of revenue and pay any taxes required to be repaid within 30 days after ceasing to be a qualified business. The amount required to be repaid is determined by calculating the tax for the period for which repayment is required without regard to the tax reductions and credits allowed under section 469.324.

(b) For the repayment of property taxes, the county auditor shall prepare a tax statement for the person, applying the applicable tax extension rates for each payable year and provide a copy to the business. The person must pay the taxes to the county treasurer within 30 days after receipt of the tax statement. The taxpayer may appeal the valuation and determination of the property tax to the tax court within 30 days after receipt of the tax statement.

(c) The provisions of chapters 270C and 289A relating to the commissioner of revenue's authority to audit, assess, and collect the tax and to hear appeals are applicable to the repayment required under paragraphs (a) and (b). The commissioner may impose civil penalties as provided in chapter 289A, and the additional tax and penalties are subject to interest at the rate provided in section 270C.40, from 30 days after ceasing to do business in the zone until the date the tax is paid.

(d) If a property tax is not repaid under paragraph (c), the county treasurer shall add the amount required to be repaid to the property taxes assessed against the property for payment in the year following the year in which the treasurer discovers that the person ceased to operate in the international economic development zone.

(e) For determining the tax required to be repaid, a tax reduction is deemed to have been received on the date that the tax would have been due if the person had not been entitled to the tax reduction.

(f) The commissioner of revenue may assess the repayment of taxes under paragraph (d) at any time within two years after the person ceases to be a qualified business, or within any period of limitations for the assessment of tax under section 289A.38, whichever is later.

Subd. 4. **Waiver authority.** The commissioner of revenue may waive all or part of a

repayment, if, in consultation with the foreign trade zone authority and appropriate officials from the state and local government units, including the commissioner of employment and economic development, determines that requiring repayment of the tax is not in the best interest of the state or local government and the business ceased operating as a result of circumstances beyond its control, including, but not limited to:

(1) a natural disaster;

(2) unforeseen industry trends; or

(3) loss of a major supplier or customer.

History: *2005 c 151 art 1 s 116; 1Sp2005 c 3 art 10 s 21*

469.329 REPORTING REQUIREMENTS.

(a) An applicant receiving designation of an international economic development zone under section 469.322 must annually report to the commissioner of employment and economic development on its progress in meeting the zone performance goals under the business plan for the zone and the applicant's compliance with the business subsidy law under sections 116J.993 to 116J.995.

(b) The commissioner must report on its Web site information on (1) the estimated amount of the tax expenditures for the zone, (2) the business subsidy agreements with qualified businesses in the zone, (3) the estimated number of new jobs created in the zone and investment made, and (4) other information similar to the information that the commissioner reports on the job opportunity building zone program on the department's Web site.

History: *1Sp2005 c 3 art 10 s 22*

BIOTECHNOLOGY AND HEALTH SCIENCES INDUSTRY ZONES

469.330 DEFINITIONS.

Subdivision 1. **Scope.** For purposes of sections 469.330 to 469.341, the following terms have the meanings given.

Subd. 2. **Applicant.** "Applicant" means a local government unit or units applying for designation of an area as a biotechnology and health sciences industry zone or a joint powers board, established under section 471.59, acting on behalf of two or more local government units.

Subd. 3. **Biotechnology and health sciences industry facility.** "Biotechnology and health sciences industry facility" means one or more facilities or operations involved in:

(1) researching, developing, and/or manufacturing a biotechnology product or service or a biotechnology-related health sciences product or service;

(2) researching, developing, and/or manufacturing a biotechnology medical device product or service or a biotechnology-related medical device product or service; or

(3) promoting, supplying, or servicing a facility or operation involved in clause (1) or (2), if the business derives more than 50 percent of its gross receipts from those activities.

Subd. 4. **Commissioner.** "Commissioner" means the commissioner of employment and economic development.

Subd. 5. **Development plan.** "Development plan" means a plan meeting the requirements of section 469.331.

Subd. 6. **Biotechnology and health sciences industry zone or zone.** "Biotechnology and health sciences industry zone" or "zone" means a zone designated by the commissioner under section 469.334.

Subd. 7. **Biotechnology and health sciences industry zone percentage or zone percentage.** "Biotechnology and health sciences industry zone percentage" or "zone percentage" means the following fraction reduced to a percentage:

(1) the numerator of the fraction is:

(i) the ratio of the taxpayer's property factor under section 290.191 located in the zone for the taxable year over the property factor numerator determined under section 290.191, plus

(ii) the ratio of the taxpayer's biotechnology and health sciences industry zone payroll factor under subdivision 8 over the payroll factor numerator determined under section 290.191; and

(2) the denominator of the fraction is two.

When calculating the zone percentage for a business that is part of a unitary business as defined under section 290.17, subdivision 4, the denominator of the payroll and property factors is the Minnesota payroll and property of the unitary business as reported on the combined report under section 290.17, subdivision 4, paragraph (j).

Subd. 8. **Biotechnology and health sciences industry zone payroll factor.** "Biotechnology and health sciences industry zone payroll factor" or "biotechnology and health sciences industry zone payroll" is that portion of the payroll factor under section 290.191 that represents:

(1) wages or salaries paid to an individual for services performed for a qualified business in a biotechnology and health sciences industry zone; or

(2) wages or salaries paid to individuals working from offices of a qualified business within a biotechnology and health sciences industry zone if their employment requires them to work outside the zone and the work is incidental to the work performed by the individual within the zone.

Subd. 9. **Local government unit.** "Local government unit" means a statutory or home rule charter city, county, town, or school district.

Subd. 10. **Person.** "Person" includes an individual, corporation, partnership, limited liability company, association, or any other entity.

Subd. 11. **Qualified business.** (a) "Qualified business" means a person carrying on a trade or business at a biotechnology and health sciences industry facility located within a biotechnology and health sciences industry zone. A person is a qualified business only on those parcels of land for which it has entered into a business subsidy agreement, as required under section 469.333, with the appropriate local government unit in which the parcels are located.

(b) A person that relocates a biotechnology and health sciences industry facility from outside a biotechnology and health sciences industry zone into a zone is not a qualified business, unless the business:

(1)(i) increases full-time employment in the first full year of operation within the biotechnology and health sciences industry zone by at least 20 percent measured relative to the operations that were relocated and maintains the required level of employment for each year the zone designation applies; or

(ii) makes a capital investment in the property located within a zone equivalent to ten percent of the gross revenues of operation that were relocated in the immediately preceding taxable year; and

(2) enters a binding written agreement with the commissioner that:

(i) pledges the business will meet the requirements of clause (1);

(ii) provides for repayment of all tax benefits enumerated under section 469.336 to the business under the procedures in section 469.340, if the requirements of clause (1) are not met; and

(iii) contains any other terms the commissioner determines appropriate.

Subd. 12. **Relocates.** (a) "Relocates" means that the trade or business:

(1) ceases one or more operations or functions at another location in Minnesota and begins performing substantially the same operations or functions at a location in a biotechnology and health sciences industry zone; or

(2) reduces employment at another location in Minnesota during a period starting one year before and ending one year after it begins operations in a biotechnology and health sciences industry zone and its employees in the biotechnology and health sciences industry zone are engaged in the same line of business as the employees at the location where it reduced employment.

(b) "Relocate" does not include an expansion by a business that establishes a new facility that does not replace or supplant an existing operation or employment, in whole or in part.

History: *1Sp2003 c 4 s 1; 1Sp2003 c 21 art 2 s 9; 1Sp2005 c 1 art 4 s 111*

469.331 DEVELOPMENT PLAN.

(a) An applicant for designation of a biotechnology and health sciences industry zone must adopt a written development plan for the zone before submitting the application to the commissioner.

(b) The development plan must contain, at least, the following:

(1) a map of the proposed zone that indicates the geographic boundaries of the zone, the total area, and present use and conditions generally of the land and structures within those boundaries;

(2) evidence of community support and commitment from local government, local workforce investment boards, school districts, and other education institutions, business groups, and the public;

(3) a description of the methods proposed to increase economic opportunity and expansion, facilitate infrastructure improvement, reduce the local regulatory burden, and identify job-training opportunities;

(4) current social, economic, and demographic characteristics of the proposed zone and anticipated improvements in education, health, human services, and employment if the zone is created;

(5) a description of anticipated activity in the zone and each subzone, including, but not limited to, industrial use and industrial site reuse;

(6) a description of the tax exemptions under section 469.336 to be provided to each qualifying business based on a development agreement between the applicant and each qualified business. The development agreement must also state any obligations the qualified business must fulfill in order to be eligible for tax benefits; and

(7) any other information required by the commissioner.

History: *1Sp2003 c 21 art 2 s 10*

469.332 ZONE LIMITS.

Subdivision 1. **Maximum size.** A biotechnology and health sciences industry zone may not exceed 5,000 acres.

Subd. 2. **Subzones.** The area of a biotechnology and health sciences industry zone may consist of one or more noncontiguous areas or subzones.

Subd. 3. **Duration limit.** The maximum duration of a zone is 12 years. The applicant

may request a shorter duration. The commissioner may specify a shorter duration, regardless of the requested duration.

History: *1Sp2003 c 21 art 2 s 11*

469.333 APPLICATION FOR DESIGNATION.

Subdivision 1. **Who may apply.** One or more local government units, or a joint powers board under section 471.59, acting on behalf of two or more units, may apply for designation of an area as a biotechnology and health sciences industry zone. All or part of the area proposed for designation as a zone must be located within the boundaries of each of the governmental units. A local government unit may not submit or have submitted on its behalf more than one application for designation of a biotechnology and health sciences industry zone.

Subd. 2. **Application content.** The application must include:

(1) a development plan meeting the requirements of section 469.331;

(2) the proposed duration of the zone, not to exceed 12 years;

(3) a resolution or ordinance adopted by each of the cities or towns and the counties in which the zone is located, agreeing to provide all of the local sales and use tax exemptions provided under section 469.336;

(4) an agreement by the applicant to treat incentives provided under the zone designation as business subsidies under sections 116J.993 to 116J.995 and to comply with the requirements of that law; and

(5) supporting evidence to allow the commissioner to evaluate the application under the criteria in section 469.334.

History: *1Sp2003 c 21 art 2 s 12; 2007 c 13 art 3 s 26*

469.334 DESIGNATION OF ZONE.

Subdivision 1. **Commissioner to designate.** (a) The commissioner, in consultation with the commissioner of revenue and the director of the Office of Strategic and Long-Range Planning, may designate biotechnology and health sciences industry zones. Priority must be given to applicants with a development plan that links a higher education/research institution with a biotechnology and health sciences industry facility.

(b) The commissioner may consult with the applicant prior to the designation of the zone. The commissioner may modify the development plan, including the boundaries of the zone or subzones, if in the commissioner's opinion a modified plan would better meet the objectives of the biotechnology and health sciences industry zone program. The commissioner shall notify the applicant of the modifications and provide a statement of the reasons for the modifications.

Subd. 2. **Need indicators.** (a) In evaluating applications to determine the need for designation of a biotechnology and health sciences industry zone, the commissioner shall consider the following factors as indicators of need:

(1) the extent to which land in proximity to a significant scientific research institution could be developed as a higher and better use for biotechnology and health sciences industry facilities;

(2) the amount of property in or near the zone that is deteriorated or underutilized; and

(3) the extent to which property in the area would remain underdeveloped or nonperforming due to physical characteristics.

(b) The commissioner may require applicants to provide data to demonstrate how the area meets one or more of the indicators of need.

Subd. 3. **Success indicators.** In determining the likelihood of success of a proposed zone, the commissioner shall consider:

(1) applicants that show a viable link between a higher education/research institution, the biotechnology and/or medical devices business sectors, and one or more units of local government with a development plan;

(2) the extent to which the area has substantial real property with adequate infrastructure and energy to support new or expanded development;

(3) the strength and viability of the proposed development goals, objectives, and strategies in the development plan;

(4) whether the development plan is creative and innovative in comparison to other applications;

(5) local public and private commitment to development of a biotechnology and health sciences industry facility or facilities in the proposed zone and the potential cooperation of surrounding communities;

(6) existing resources available to the proposed zone;

(7) how the designation of the zone would relate to other economic and community development projects and to regional initiatives or programs;

(8) how the regulatory burden will be eased for biotechnology and health sciences industry facilities located in the proposed zone;

(9) proposals to establish and link job creation and job training in the biotechnology and health sciences industry with research/educational institutions; and

(10) the extent to which the development is directed at encouraging, and that designation of the zone is likely to result in, the creation of high-paying jobs.

Subd. 4. **Designation schedule.** (a) The schedule in paragraphs (b) to (e) applies to the designation of the first biotechnology and health sciences industry zone.

(b) The commissioner shall publish the form for applications and any procedural, form, or content requirements for applications by no later than August 1, 2003. The commissioner may publish these requirements on the Internet, in the State Register, or by any other means the commissioner determines appropriate to disseminate the information to potential applicants for designation.

(c) Applications must be submitted by October 15, 2003.

(d) The commissioner shall designate the zones by no later than December 31, 2003.

(e) The designation of the zones takes effect January 1, 2004.

(f) Additional zones may be designated in later years, only after the commissioner of employment and economic development has established criteria for expanding the number of zones. The criteria must limit designating a new zone to a community that has adequate resources and infrastructure to support bioindustry, including postsecondary institutions, strong health care systems, and existing bioscience companies. It must also require that a new zone be located on a transportation corridor.

History: *1Sp2003 c 21 art 2 s 13; 2006 c 276 s 1,2; 2006 c 282 art 11 s 30,31; 2007 c 135 art 2 s 33*

469.335 APPLICATION FOR TAX BENEFITS.

(a) To claim a tax credit or exemption against a state tax under section 469.336, a business must apply to the commissioner for a tax credit certificate. As a condition of its application, the business must agree to furnish information to the commissioner that is sufficient to verify the eligibility for any credits or exemptions claimed. The total amount of the state tax credits and exemptions allowed for the specified period may not exceed the amount of the tax credit certificates provided by the commissioner to the business. The commissioner must verify to the commissioner of revenue the amount of tax exemptions or credits for which each business is eligible.

(b) A tax credit certificate issued under this section may specify the particular tax exemptions or credits against a state tax that the qualified business is eligible to claim under section 469.336, and the amount of each exemption or credit allowed.

(c) The commissioner may issue $1,000,000 of tax credits or exemptions in fiscal year 2004. Any tax credits or exemptions not awarded in fiscal year 2004 may be awarded in fiscal year 2005.

(d) A qualified business must use the tax credits or tax exemptions granted under this section by the later of the end of the state fiscal year or the taxpayer's tax year in which the credits or exemptions are granted.

History: *1Sp2003 c 21 art 2 s 14; 2007 c 13 art 3 s 27*

469.336 TAX INCENTIVES AVAILABLE IN ZONES.

Qualified businesses that operate in a biotechnology and health sciences industry zone, individuals who invest in a qualified business that operates in a biotechnology and health sciences industry zone, and property of a qualified business located in a biotechnology and health sciences industry zone qualify for:

(1) exemption from corporate franchise taxes as provided under section 469.337;

(2) exemption from the state sales and use tax and any local sales and use taxes on qualifying purchases as provided in section 297A.68, subdivision 38;

(3) research and development credits as provided under section 469.339;

(4) jobs credits as provided under section 469.338.

History: *1Sp2003 c 21 art 2 s 15; 2007 c 13 art 3 s 28*

469.337 CORPORATE FRANCHISE TAX EXEMPTION.

(a) A qualified business is exempt from taxation under section 290.02, the alternative minimum tax under section 290.0921, and the minimum fee under section 290.0922, on the portion of its income attributable to operations of a qualified business within the biotechnology and health sciences industry zone. This exemption is determined as follows:

(1) for purposes of the tax imposed under section 290.02, by multiplying its taxable net income by its zone percentage and subtracting the result in determining taxable income;

(2) for purposes of the alternative minimum tax under section 290.0921, by multiplying its alternative minimum taxable income by its zone percentage and reducing alternative minimum taxable income by this amount; and

(3) for purposes of the minimum fee under section 290.0922, by excluding zone property and payroll from the computations of the fee. The qualified business is exempt from the minimum fee if all of its property is located in the zone and all of its payroll is zone payroll.

(b) No subtraction is allowed under this section in excess of 20 percent of the sum of the corporation's biotechnology and health sciences industry zone payroll and the adjusted basis of the property at the time that the property is first used in the biotechnology and health sciences industry zone by the corporation.

(c) No reduction in tax is allowed in excess of the amount allocated under section 469.335.

History: *1Sp2003 c 21 art 2 s 16; 1Sp2005 c 3 art 7 s 16*

469.338 JOBS CREDIT.

Subdivision 1. **Credit allowed.** A qualified business is allowed a credit against the taxes imposed under chapter 290.

The credit equals seven percent of the:

(1) lesser of:

(i) zone payroll for the taxable year, less the zone payroll for the base year; or

(ii) total Minnesota payroll for the taxable year, less total Minnesota payroll for the base year; minus

(2) $30,000 multiplied by the number of full-time equivalent employee positions that the qualified business employs in the biotechnology and health sciences industry zone for the taxable year, minus the number of full-time equivalent employees the business employed in the zone in the base year, but not less than zero.

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

(b) "Base year" means the taxable year beginning during the calendar year in which the commissioner designated the zone.

(c) "Full-time equivalent employee position" means the equivalent of annualized expected hours of work equal to 2,080 hours.

(d) "Minnesota payroll" means the wages or salaries attributed to Minnesota under section 290.191, subdivision 12, for the qualified business or the unitary business of which the qualified business is a part, whichever is greater.

(e) "Zone payroll" means wages or salaries used to determine the zone payroll factor for the qualified business.

Subd. 3. **Inflation adjustment.** For taxable years beginning after December 31, 2004, the dollar amount in subdivision 1, clause (2), is annually adjusted for inflation. The commissioner of revenue shall adjust the amount by the percentage determined under section 290.06, subdivision 2d, for the taxable year.

Subd. 4. **Refundable.** If the amount of the credit calculated under this section and allocated to the qualified business under section 469.335 exceeds the liability for tax under chapter 290, the commissioner of revenue shall refund the excess to the qualified business.

History: *1Sp2003 c 21 art 2 s 17*

469.339 CREDIT FOR MORE RESEARCH IN ZONE.

Subdivision 1. **Credit allowed.** A corporation, other than a corporation treated as an "S" corporation under section 290.9725, is allowed a credit against the portion of the franchise tax computed under section 290.06, subdivision 1, for the taxable year equal to:

(1) five percent of the first $2,000,000 of the excess (if any) of (i) the qualified research expenses for the taxable year, over (ii) the base amount; and

(2) 2.5 percent of all such excess expenses over $2,000,000.

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

(b) "Qualified research expenses" means qualified research expenses and basic research payments as defined in section 41(b) and (e) of the Internal Revenue Code.

(c) "Qualified research" means activities in the fields of biotechnology or health sciences that are "qualified research" as defined in section 41(d) of the Internal Revenue Code, except that the term does not include qualified research conducted outside the biotechnology and health sciences industry zone.

(d) "Base amount" means base amount as defined in section 41(c) of the Internal Revenue Code, except that the average annual gross receipts must be calculated using Minnesota sales or receipts under section 290.191 and the definitions contained in paragraphs (b) and (c) apply.

(e) "Liability for tax" for purposes of this section means the tax imposed under this chapter for the taxable year reduced by the sum of the nonrefundable credits allowed under this chapter.

Subd. 3. **Refundable credit.** If the credit determined under this section and allocated to the taxpayer under section 469.335 for the taxable year exceeds the taxpayer's liability for tax for the year, the commissioner shall refund the difference to the taxpayer.

Subd. 4. **Partnerships.** For partnerships, the credit is allocated in the same manner provided by section 41(f)(2) of the Internal Revenue Code.

Subd. 5. **Adjustments; acquisitions and dispositions.** If a taxpayer acquires or disposes of the major portion of a trade or business or the major portion of a separate unit of a trade or business in a transaction with another taxpayer, the taxpayer's qualified research expenses and base amount are adjusted in the same manner provided by section 41(f)(3) of the Internal Revenue Code.

Subd. 6. **Interaction; regular research credit.** Any amount used to calculate a credit under this section may not be used to generate a credit under section 290.068.

History: *1Sp2003 c 21 art 2 s 18; 2004 c 228 art 1 s 65*

469.340 REPAYMENT OF TAX BENEFITS.

Subdivision 1. **Repayment obligation.** A business must repay the amount of the tax reduction listed in section 469.336 and any refunds under sections 469.338 and 469.339 in excess of tax liability, received during the two years immediately before it ceased to operate in the zone, if the business:

(1) received tax reductions authorized by section 469.336; and

(2)(i) did not meet the goals specified in an agreement entered into with the applicant that states any obligation the qualified business must fulfill in order to be eligible for tax benefits. The commissioner of employment and economic development may extend for up to one year the period for meeting any goals provided in an agreement. The applicant may extend the period for meeting other goals by documenting in writing the reason for the extension and attaching a copy of the document to its next annual report to the commissioner of employment and economic development; or

(ii) ceased to operate its facility located within the biotechnology and health sciences industry zone or otherwise ceases to be or is not a qualified business.

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

(b) "Business" means any person who received tax benefits enumerated in section 469.336.

(c) "Commissioner" means the commissioner of revenue.

Subd. 3. **Disposition or repayment.** The repayment must be paid to the state to the extent it represents a state tax reduction and to the county to the extent it represents a property tax reduction. Any amount repaid to the state must be deposited in the general fund. Any amount repaid to the county for the property tax exemption must be distributed to the local governments with authority to levy taxes in the zone in the same manner provided for distribution of payment of delinquent property taxes. Any repayment of local sales taxes must be repaid to the city or county imposing the local sales tax.

Subd. 4. **Repayment procedures.** (a) For the repayment of taxes imposed under chapter 290 or 297A or local taxes collected pursuant to section 297A.99, a business must file an amended return with the commissioner of revenue and pay any taxes required to be repaid within 30 days after ceasing to do business in the zone. The amount required to be repaid is determined by calculating the tax for the period or periods for which repayment is required without regard to the exemptions and credits allowed under section 469.336.

(b) For the repayment of property taxes, the county auditor shall prepare a tax statement for the business, applying the applicable tax extension rates for each payable year and provide a copy to the business. The business must pay the taxes to the county treasurer within 30 days

after receipt of the tax statement. The taxpayer may appeal the valuation and determination of the property tax to the Tax Court within 30 days after receipt of the tax statement.

(c) The provisions of chapters 270C and 289A relating to the commissioner's authority to audit, assess, and collect the tax and to hear appeals are applicable to the repayment required under paragraph (a). The commissioner may impose civil penalties as provided in chapter 289A, and the additional tax and penalties are subject to interest at the rate provided in section 270C.40, from 30 days after ceasing to do business in the biotechnology and health sciences industry zone until the date the tax is paid.

(d) If a property tax is not repaid under paragraph (b), the county treasurer shall add the amount required to be repaid to the property taxes assessed against the property for payment in the year following the year in which the treasurer discovers that the business ceased to operate in the biotechnology and health sciences industry zone.

(e) For determining the tax required to be repaid, a tax reduction is deemed to have been received on the date that the tax would have been due if the taxpayer had not been entitled to the exemption, or on the date a refund was issued for a refundable credit.

(f) The commissioner may assess the repayment of taxes under paragraph (c) any time within two years after the business ceases to operate in the biotechnology and health sciences industry zone, or within any period of limitations for the assessment of tax under section 289A.38, whichever period is later.

Subd. 5. **Waiver authority.** The commissioner may waive all or part of a repayment, if the commissioner, in consultation with the commissioner of employment and economic development and appropriate officials from the local government units in which the business is located, determines that requiring repayment of the tax is not in the best interest of the state or the local government units and the business ceased operating as a result of circumstances beyond its control including, but not limited to:

(1) a natural disaster;

(2) unforeseen industry trends; or

(3) loss of a major supplier or customer.

History: *1Sp2003 c 4 s 1; 1Sp2003 c 21 art 2 s 19; 2005 c 151 art 2 s 17; 1Sp2005 c 1 art 4 s 112*

469.341 ZONE PERFORMANCE; REMEDIES.

Subdivision 1. **Reporting requirement.** An applicant receiving designation of a biotechnology and health sciences industry zone under section 469.334 must annually report to the commissioner on its progress in meeting the zone performance goals under the development

plan for the zone and the applicant's compliance with the business subsidy law under sections 116J.993 to 116J.995.

Subd. 2. **Procedures.** For reports required by subdivision 1, the commissioner may prescribe:

(1) the required time or times by which the reports must be filed;

(2) the form of the report; and

(3) the information required to be included in the report.

Subd. 3. **Remedies.** If the commissioner determines, based on a report filed under subdivision 1 or other available information, that a zone or subzone is failing to meet its performance goals, the commissioner may take any actions the commissioner determines appropriate, including modification of the boundaries of the zone or a subzone or termination of the zone or a subzone. Before taking any action, the commissioner shall consult with the applicant and the affected local government units, including notifying them of the proposed actions to be taken. The commissioner shall publish any order modifying a zone in the State Register and on the Internet. The applicant may appeal the commissioner's order under the contested case procedures of chapter 14.

Subd. 4. **Existing businesses.** (a) An action to remove area from a zone or to terminate a zone under this section does not apply to:

(1) the property tax on improvements constructed before the first January 2 following publication of the commissioner's order;

(2) sales tax on purchases made before the first day of the next calendar month beginning at least 30 days after publication of the commissioner's order; and

(3) individual income tax or corporate franchise tax attributable to a facility that was in operation before the publication of the commissioner's order.

(b) The tax exemptions specified in paragraph (a) terminate on the date on which the zone expires under the original designation.

History: *1Sp2003 c 21 art 2 s 20*

469.35 TRANSIT IMPROVEMENT AREA ACCOUNTS.

Two transit improvement area accounts are created, one in the general fund and one in the bond proceeds fund. Money in the accounts may be used to make grants or loans as provided in section 469.351 and for the commissioner's costs in reviewing applications and making loans or grants. Money in the accounts must not be used to pay for the operation of transit lines or the construction or operating costs of transit stations.

History: *2008 c 300 s 43*

469.351 TRANSIT IMPROVEMENT AREA LOAN PROGRAM.

Subdivision 1. **Definitions.** (a) The terms defined in this section have the meanings given them and apply to sections 469.35 and 469.351.

(b) "Applicant" means a local governmental unit or a joint powers board, established under section 471.59.

(c) "Commissioner" means the commissioner of employment and economic development.

(d) "Eligible organization" means an applicant that has been designated as a transit improvement area by the commissioner.

(e) "Local governmental unit" means a statutory or home rule charter city or town, or a county.

(f) "Transit improvement area" means a geographic area designated by the commissioner composed of land parcels that are in proximity to a transit station.

(g) "Transit station" means a physical structure to support the interconnection of public transit modes including at least one of the following modes: bus rapid transit, light rail transit, and commuter rail.

Subd. 2. **Designation of transit improvement areas.** A transit improvement area must increase the effectiveness of a transit project by incorporating one or more public transit modes with commercial, residential, or mixed-use development and by providing for safe and pedestrian-friendly use. The commissioner, in consultation with affected state and regional agencies, must designate transit improvement areas that meet the objectives under this subdivision. Affected state and regional agencies include, but are not limited to, the Minnesota Department of Transportation, the Minnesota Housing Finance Agency, and the Metropolitan Council for transit improvement areas located in the seven-county metropolitan region. To be eligible for designation, an applicant must submit a transit area improvement plan according to the requirements and timelines established by the commissioner. At a minimum, the plan must include the information specified under subdivision 3. The commissioner may modify an applicant's plan to better achieve the objectives of transit improvement areas. The commissioner must notify applicants of the designations and must provide a statement of any changes to an applicant's plan with justification for all changes.

Subd. 3. **Transit area improvement plan.** (a) An applicant must adopt a transit area improvement plan by resolution before submitting the application to the commissioner with the information required in this subdivision. Each transit area improvement plan must include the following:

(1) a map indicating the geographic boundaries of the transit improvement area;

(2) a description of the project for which funding under subdivision 4 is being requested;

(3) an analysis of the demographic mix of people who are anticipated to use the transit station;

(4) a description of the ownership and intended use of public and private facilities to be constructed in the transit improvement area, including infrastructure, buildings and other structures, and parks;

(5) a description of pedestrian-friendly improvements to be provided, including walkways, parkways, and signage;

(6) a statement of findings that the redevelopment or development of the transit improvement area promotes higher density land uses resulting in increased transit ridership;

(7) a statement of the anticipated sources and amounts of local public funds;

(8) a statement of the anticipated sources and amounts of private funds;

(9) a statement of the anticipated sources and amounts of leveraged regional, state, and federal funds;

(10) a description of the linkages to existing and proposed local, regional, and state transit systems; and

(11) a description of other factors in the proposed development to increase ridership.

(b) Transit improvement area plans with a residential component must propose at least 12 residential units per acre or a density bonus that allows for an increase in the number of residential units over what is permitted by the underlying zoning. The plan must include a description of the variety of housing types, including housing appropriate for low-income persons, disabled persons, and senior citizens and the prices for each housing type within the transit improvement area.

Subd. 4. **Transit improvement area loans.** (a) The commissioner may make loans to eligible organizations to be used for eligible costs under paragraph (b). A loan must be used for a designated transit improvement area, under the following terms:

(1) the eligible organization must guarantee repayment of 100 percent of the loan;

(2) a loan must be for a term of ten years, unless repayment is from a tax increment financing district or other state or federal funds, at an interest rate of two percent;

(3) the eligible organization must make annual interest-only payments during the ten-year term of the loan;

(4) the eligible organization must pay the entire principal amount of the initial loan at the end of the ten-year term;

(5) a loan may not exceed $2,000,000;

(6) the commissioner must disburse the loan on a cash-needs basis, based on costs incurred by the eligible organization, as well as reporting and other requirements outlined in subdivision 5;

(7) the eligible organization must maintain the funds in accounts that allow the funds to be readily available for business investments;

(8) the eligible organization and the commissioner may agree on contract specifications that are consistent with payback from a tax increment financing district or from any other state and federal funds that may be forthcoming; and

(9) an eligible organization that receives a loan must report annually, in a format prescribed by the commissioner, on the nature and amount of the business investments in the transit improvement area, including an account of each financing transaction involving loans received under this section, the types and amounts of financing from sources other than the transit improvement area loan, the number of jobs created, and the amount of private sector and nonstate investment leveraged.

(b) Loans under this section must be used to supplement and not replace funding from existing sources or programs. Loans must not be used for the construction costs of transit stations; transit systems; or the operating costs of public transit or transportation, including, but not limited to, the costs of maintaining, staffing, or operating transit stations. Loans from the bond proceeds fund must be spent to acquire and to better publicly owned land and buildings and other public improvements of a capital nature. Loans can be used for the following eligible expenditures according to an approved transit area improvement plan:

(1) clearing land;

(2) relocation costs;

(3) corrections for soil, including removing or remediation of hazardous substances;

(4) construction or installation of walkways, bridges or tunnels for pedestrians, bikeways, parking facilities, and signage;

(5) improvements to streetscapes;

(6) construction of public infrastructure to support construction of new affordable housing, senior housing, or housing for disabled persons;

(7) construction of public infrastructure to support job creation in the area, especially small business development;

(8) developing green spaces and parks; and

(9) administrative expenses of the local authority.

(c) All loan repayments under this section must be made to the appropriate account under section 469.35 for reinvestment in transit improvement areas.

Subd. 5. **Loan requirements.** All loans under this section are subject to an investment agreement that must include:

(1) a description of the eligible organization, including business finance experience, qualifications, and investment history;

(2) a description of the uses of investment proceeds by the eligible organization;

(3) an explanation of the investment objectives; and

(4) a description of the method of payment.

History: *2008 c 300 s 44*