

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*