

**SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION**

S.F. No. 4595

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DATE
03/04/2024

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Introduction and first reading
Referred to Taxes

OFFICIAL STATUS

1.1 A bill for an act
1.2 relating to taxation; tax increment financing; extending the five- and six-year rules
1.3 for certain districts; removing income restrictions for certain housing districts;
1.4 amending Minnesota Statutes 2022, section 469.1761, subdivision 1; Minnesota
1.5 Statutes 2023 Supplement, section 469.1763, subdivisions 3, 4.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2022, section 469.1761, subdivision 1, is amended to read:

1.8 Subdivision 1. **Requirement imposed.** (a) In order for a tax increment financing district
1.9 to qualify as a housing district:

1.10 (1) the income limitations provided in this section must be satisfied if the district is
1.11 located in a metropolitan county as defined in section 473.121, subdivision 4; and

1.12 (2) no more than 20 percent of the square footage of buildings that receive assistance
1.13 from tax increments may consist of commercial, retail, or other nonresidential uses.

1.14 (b) The requirements imposed by this section apply to property receiving assistance
1.15 financed with tax increments, including interest reduction, land transfers at less than the
1.16 authority's cost of acquisition, utility service or connections, roads, parking facilities, or
1.17 other subsidies. The provisions of this section do not apply to districts located in a targeted
1.18 area as defined in section 462C.02, subdivision 9, clause (e).

1.19 (c) For purposes of the requirements of paragraph (a), the authority may elect to treat
1.20 an addition to an existing structure as a separate building if:

1.21 (1) construction of the addition begins more than three years after construction of the
1.22 existing structure was completed; and

2.1 (2) for an addition that does not meet the requirements of paragraph (a), clause (2), if it
2.2 is treated as a separate building, the addition was not contemplated by the tax increment
2.3 financing plan which includes the existing structure.

2.4 **EFFECTIVE DATE.** This section is effective for districts for which the request for
2.5 certification was made after June 30, 2024.

2.6 Sec. 2. Minnesota Statutes 2023 Supplement, section 469.1763, subdivision 3, is amended
2.7 to read:

2.8 Subd. 3. **Five-year rule.** (a) Revenues derived from tax increments paid by properties
2.9 in the district that are expended on an activity within the district will instead be considered
2.10 to have been expended on an activity outside the district for purposes of subdivision 2 unless:

2.11 (1) before or within five years after certification of the district, the revenues are actually
2.12 paid to a third party with respect to the activity;

2.13 (2) bonds, the proceeds of which must be used to finance the activity, are issued and
2.14 sold to a third party before or within five years after certification of the district, the revenues
2.15 are spent to repay the bonds, and the proceeds of the bonds either are, on the date of issuance,
2.16 reasonably expected to be spent before the end of the later of (i) the five-year period, or (ii)
2.17 a reasonable temporary period within the meaning of the use of that term under section
2.18 148(c)(1) of the Internal Revenue Code, or are deposited in a reasonably required reserve
2.19 or replacement fund;

2.20 (3) binding contracts with a third party are entered into for performance of the activity
2.21 before or within five years after certification of the district and the revenues are spent under
2.22 the contractual obligation;

2.23 (4) costs with respect to the activity are paid before or within five years after certification
2.24 of the district and the revenues are spent to reimburse a party for payment of the costs,
2.25 including interest on unreimbursed costs; or

2.26 (5) revenues are spent for housing purposes as described by subdivision 2, paragraph
2.27 (b).

2.28 (b) For purposes of this subdivision, bonds include subsequent refunding bonds if the
2.29 original refunded bonds meet the requirements of paragraph (a), clause (2).

2.30 (c) For a redevelopment district or a renewal and renovation district certified after June
2.31 30, 2003, and before April 20, 2009, the five-year periods described in paragraph (a) are
2.32 extended to ten years after certification of the district. For a redevelopment district certified

3.1 after April 20, 2009, and before June 30, 2012, the five-year periods described in paragraph
3.2 (a) are extended to eight years after certification of the district. This extension is provided
3.3 primarily to accommodate delays in development activities due to unanticipated economic
3.4 circumstances.

3.5 (d) For a redevelopment district that was certified after December 31, 2017, and before
3.6 June 30, 2020, the five-year periods described in paragraph (a) are extended to eight years
3.7 after certification of the district.

3.8 (e) For any district certified after June 30, 2024, and not located in a metropolitan county,
3.9 the five-year periods described in paragraph (a) are extended to ten years after certification
3.10 of the district. For purposes of this paragraph, "metropolitan county" has the meaning
3.11 provided in section 473.121, subdivision 4.

3.12 **EFFECTIVE DATE.** This section is effective for districts for which the request for
3.13 certification was made after June 30, 2024.

3.14 Sec. 3. Minnesota Statutes 2023 Supplement, section 469.1763, subdivision 4, is amended
3.15 to read:

3.16 **Subd. 4. Use of revenues for decertification.** (a) Beginning with the sixth year following
3.17 certification of the district, or beginning with the year following the extended period for
3.18 districts whose five-year period is extended under subdivision 3, ~~paragraphs~~ paragraph (c)
3.19 ~~and, (d), or (e).~~ a district must be decertified when the product of the applicable in-district
3.20 percentage multiplied by the cumulative revenues derived from tax increments paid by
3.21 properties in the district that have been collected through the end of the calendar year, equals
3.22 or exceeds an amount sufficient to pay the following:

3.23 (1) any costs and obligations described in subdivision 3, paragraphs (a) and (b), excluding
3.24 those under a qualifying pay-as-you-go contract and note;

3.25 (2) any accrued interest on the costs and obligations in clause (1), payable in accordance
3.26 with the terms thereof; and

3.27 (3) any administrative expenses falling within the exception in subdivision 2, paragraph
3.28 (c).

3.29 (b) For districts with an outstanding qualifying pay-as-you-go contract and note, the
3.30 required decertification under paragraph (a) is deferred until the end of the remaining term
3.31 of the last outstanding qualifying pay-as-you-go contract and note, and the applicable
3.32 in-district percentage of cumulative revenues derived from tax increments paid by properties
3.33 in the district are sufficient to pay the obligations identified in subdivision 3, paragraphs

4.1 (a) and (b), provided that the deferral shall not exceed the district's duration limit under
4.2 section 469.176. During the deferral, beginning at the time paragraph (a) would otherwise
4.3 require decertification, the authority must annually either:

4.4 (1) remove from the district, by the end of the year, all parcels that will no longer have
4.5 their tax increment revenue pledged or subject to a qualifying pay-as-you-go contract and
4.6 note or other costs and obligations described in subdivision 3, paragraphs (a) and (b), after
4.7 the end of the year; or

4.8 (2) use the applicable in-district percentage of revenues derived from tax increments
4.9 paid by those parcels to prepay an outstanding qualifying pay-as-you-go contract and note
4.10 of the district or other costs and obligations described in subdivision 3, paragraphs (a) and
4.11 (b), or to accumulate and use revenues derived from tax increments paid by those parcels
4.12 as permitted under paragraph (i).

4.13 The authority must remove any parcels as required by this paragraph by modification
4.14 of the tax increment financing plan and notify the county auditor of the removed parcels by
4.15 the end of the same calendar year. Notwithstanding section 469.175, subdivision 4,
4.16 paragraphs (b), clause (1), and (e), the notice, discussion, public hearing, and findings
4.17 required for approval of the original plan are not required for such a modification.

4.18 (c) Notwithstanding paragraph (a) or (b), if tax increment was pledged prior to August
4.19 1, 2023, to a bond other than a pay-as-you-go contract and note or interfund loan, and the
4.20 proceeds of the bond were used solely or in part to pay authorized costs for activities outside
4.21 the district, the requirement to decertify under paragraph (a) or remove parcels under
4.22 paragraph (b) shall not apply prior to the bond being fully paid or defeased.

4.23 (d) For purposes of this subdivision, "applicable in-district percentage" means the
4.24 percentage of tax increment revenue that is restricted for expenditures within the district,
4.25 as determined under subdivision 2, paragraphs (a) and (d), for the district.

4.26 (e) For purposes of this subdivision, "qualifying pay-as-you-go contract and note" means
4.27 a pay-as-you-go contract and note that is considered to be for activities within the district
4.28 under subdivision 3, paragraph (a).

4.29 (f) For purposes of this subdivision, the reference in paragraph (a) to cumulative revenues
4.30 derived from tax increments paid by properties in the district through the end of the calendar
4.31 year shall include any final settlement distributions made in the following January. For
4.32 purposes of the calculation in paragraph (a), any amounts returned to the county auditor as
4.33 excess increment or as remedies under section 469.1771, subdivision 2, shall first be

5.1 subtracted from the cumulative revenues derived from tax increments paid by properties in
5.2 the district.

5.3 (g) The timing and implementation of a decertification pursuant to paragraphs (a) and
5.4 (b) shall be subject to the following:

5.5 (1) when a decertification is required under paragraph (a) and not deferred under
5.6 paragraph (b), the authority must, as soon as practical and no later than the final settlement
5.7 distribution date of January 25 as identified in section 276.111 for the property taxes payable
5.8 in the calendar year identified in paragraph (a), make the decertification by resolution
5.9 effective for the end of the calendar year identified in paragraph (a), and communicate the
5.10 decertification to the county auditor;

5.11 (2) when a decertification is deferred under paragraph (b), the authority must, by
5.12 December 31 of the year in which the last qualifying pay-as-you-go contract and note reaches
5.13 termination, make the decertification by resolution effective for the end of that calendar
5.14 year and communicate the decertification to the county auditor;

5.15 (3) if the county auditor is unable to prevent tax increments from being calculated for
5.16 taxes payable in the year following the year for which the decertification is made effective,
5.17 the county auditor may redistribute the tax increments in the same manner as excess
5.18 increments under section 469.176, subdivision 2, paragraph (c), clause (4), without first
5.19 distributing them to the authority; and

5.20 (4) if tax increments are distributed to an authority for a taxes payable year after the year
5.21 for which the decertification was required to be effective, the authority must return the
5.22 amount of the distributions to the county auditor for redistribution in the same manner as
5.23 excess increments under section 469.176, subdivision 2, paragraph (c), clause (4).

5.24 (h) The provisions of this subdivision do not apply to a housing district.

5.25 (i) Notwithstanding anything to the contrary in paragraph (a) or (b), if an authority has
5.26 made the election in the tax increment financing plan for the district under subdivision 2,
5.27 paragraph (d), then the requirement to decertify under paragraph (a) or remove parcels under
5.28 paragraph (b) shall not apply prior to such time that the accumulated revenues derived from
5.29 tax increments paid by properties in the district that are eligible to be expended for housing
5.30 purposes described under subdivision 2, paragraph (d), equals the lesser of the amount the
5.31 authority is permitted to expend for housing purposes described under subdivision 2,
5.32 paragraph (d), or the amount authorized for such purposes in the tax increment financing
5.33 plan. Increment revenues collected after the district would have decertified under paragraph
5.34 (a) or from parcels which otherwise would be subject to removal under paragraph (b), absent

6.1 the exception of this paragraph, shall be used solely for housing purposes as described in
6.2 subdivision 2, paragraph (d).

6.3 **EFFECTIVE DATE.** This section is effective for districts for which the request for
6.4 certification was made after June 30, 2024.