

# HOUSE RESEARCH

## Bill Summary

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### Overview

This is the annual bill that makes a variety of technical and minor changes in the tax increment financing (TIF) act. Representatives of the Office of State Auditor, cities, and development authority, as well as practitioners and legislative staff, develop the bill's provisions.

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- 1 Cleanup grants, special duration limit.** Repeals the special duration restriction on TIF districts that receive state cleanup grants. Before repeal of the state aid offset, districts and subdistricts established to meet the local match requirement for the state grants were exempted from the state aid offset. However, they were subject to a special duration restriction that required termination of the district when increments equal to three times the cleanup related costs had been received. The 2003 Revisor's bill repealed the references to the state aid offset, which was repealed in the 2001 tax bill, but retained the special duration limit. Since the special duration limit was likely a condition on the exemption from the state aid offset, this section repeals the duration limit.
- 2 Housing districts.** Repeals the two-tiered set of income limits that have applied to housing districts since the percentage income limits were enacted in 1989. Under present law, the definition of "housing district" limits the amount of market value of the planned development that may be in "other than low and moderate income housing." Minn. Stat. § 469.174, subd. 11 (2002). Section 469.1761 imposes percentage income tests for rental and owner-occupied housing developments. Development authorities have generally administered the law in a way that treats housing that meets the percentage test (i.e., all of the housing units that were

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used in the denominator when the percentages were computed for the tests) as being "low and moderate-income housing" for the purposes of the market value test. This section eliminates the market value test altogether. The restriction on providing assistance to commercial property is moved to section 469.1761, which contains the income tests. This change is made retroactive back to the 1989 enactment of the percentage income limits, since that is the way the law has been applied.

**3** **Definition of increment.** Modifies the definition of increment in three ways:

- Clarifies that the proceeds from the sale or lease of property, purchased in part with increments and in part with other moneys, are tax increments only in proportion to which the original property tax was purchased with increments.
- Provides that returns or repayments of increment by developers or others are increments. This is currently provided under the developer payment provision (applicable to districts to which the request for certification was made after August 1, 1993). Minn. Stat. § 469.1766. Section 0 repeals the developer payment provision. The effective date is tied to the effective date of the original developer payment restrictions (i.e., post-1993 districts).
- Clarifies that the market value homestead credit payments are increment. This credit was enacted in the 2001 tax bill and was first paid for taxes payable in 2002. Treating these credits as increments reflects current administrative practice and the practice under the old homestead credit (in placed in the 1970s and 1980s). In addition, it is consistent with the economic character of these credits, as essentially a substitute for property taxes.

**4** **TIF plan filing.** Requires TIF plans to be filed with the Office of the State Auditor in addition to the requirement under present law to file them with the Department of Revenue. Effective for the 2004 filing of plans.

**5** **Housing districts, use of increments.** Adds a cross reference in the statute that specifies the permitted use of housing district increments to the statute establishing the income limits.

**6** **Housing districts, commercial properties.** Limits the size of related commercial developments that may be assisted with housing district increments. Present law imposes a percentage of market value test, described above under section 0. This section substitutes a square footage test, as a simpler and clearer test that avoids the difficulties involved with appraisal or cost accounting under the market value test. Thus, housing district increments may be used to assist both the housing development that meets the income tests under section 469.1761 (i.e., the entire development, not just the income qualified units) and the related commercial or other developments meeting the 20 percent square footage test. Other properties (e.g., market rate housing units or commercial properties) could be included in the district, if they are not assisted with tax increments (i.e., the authority documents that these properties paid for their full cost of development and they did not receive a "bargain" on site acquisition, infrastructure or similar costs).

**7** **Cross reference correction.** Corrects a cross reference to the valuation adjustments that result from platting of properties. The erroneous references resulted from legislative changes that moved this language to new subdivisions and changed the time periods for phasing in

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- value increases resulting from platting. The effective date is retroactive to those changes.
- 8** **Cross reference correction.** Corrects a cross reference in enforcement statute to the excess increment statute. Legislation enacted in 2003 divided the excess increment statute into additional paragraphs and the cross reference in section 469.1771, subdivision 5, was not changed. Effective retroactive to the underlying 2003 change.
- 9** **Cross reference correction.** Corrects a cross reference in the TIF bonding statute. Legislation enacted in 1988 divided the subdivision limiting the spending of increments into a general subdivision and separate subdivisions by district type. The cross reference in the limit on the use of bonds proceeds was not changed to reflect the separate subdivisions. Effective retroactive to the underlying changes in the cross-referenced statutes.
- 10** **Repealer.** This section repeals the 3-year rule and the restrictions on developer payments.
- The developer payments provision has effectively been superseded by the definition of increment enacted in 1997 and the changes made in section 0. This change is effective retroactive to enactment of the developer payment provision, since the changes in the definition of increment now cover this.
  - The 3-year rule requires bonds to be issued, property to be acquired, or public infrastructure to be constructed in the district within 3 years of certification of the district. This restriction can be satisfied in a technical manner (e.g., by issuing a small amount of bonds) and is a trap for unwary city or development authority. The rule technically requires the activity to occur after the certification, so activity occurring after the request for certification but before the district is actually certified does not qualify. The 4-year rule requires development to occur on each parcel in the district and provides a stronger guarantee of development activity in the district. Therefore, it seemed superfluous to impose both rules. (The 3-year rule was contained in the original 1979 Act, while the 4-year rule was added by the 1982 amendments.) This change is effective the day following final enactment. In addition, the effective date provides that under the 3-year rule any qualifying activity undertaken before certification of the district satisfies the rule for any district.