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Authors: Garofalo

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Analyst: Joel Michael, joel.michael@house.mn

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This bill modifies the bond allocation statute to allow district heating projects owned by for profit entities to qualify as public facilities projects. Under present law, these projects must be owned by a nonprofit organization to qualify for an allocation of public facilities bonding.

Background. The bond allocation statute sets Minnesota’s process for allocating the annual dollar limitation imposed by federal law on issuance of “private activity” tax exempt bonds. Under federal law, “private activity bonds” are bonds issued by a state or local government unit, but that finance facilities that are used (ten percent or more) for some type of private use and that are secured (again, ten percent or more) by revenues from or relating to the private use. Some private activity bonds are not subject to the dollar limit (e.g., bonds issued for private hospitals, colleges, and other exempt entities). The common types of facilities financed with bonds that are subject to the dollar limits include:

- Housing bonds used to finance both low-income rental and owner-occupied housing (except veterans mortgage bonds which are exempt from the dollar cap)
- Student loan bonds
- Small issues (typically for smaller manufacturing projects)
- Various types of public utility projects (such as the district heating bonds that are the subject of this bill)

The bond allocation statute sets up a complicate mechanism for allocating Minnesota’s dollar limit by type of project (i.e., what the bonds finance) and the governmental entity issuing them (e.g., state agency, various specific cities or counties, etc.). The mechanism sets priorities among these uses and issuers; it also is intended to ensure that the full amount of the annual cap is used and does not lapse, since the ability to issue tax exempt bonds is essentially a federal tax subsidy/grant for qualifying projects. Allowing issuance authority to lapse is considered similar to passing up a federal grant-in-aid.