Overview

This bill makes a number of minor, procedural, and clarifying changes in the tax increment financing (TIF) law. In addition, it eliminates the 11 year duration limit (from the date of plan approval) for economic development districts, while the limit based on the first collection of increment is reduced from 9 years to 8 years. The bill also repeals mined underground space TIF districts.

Section

1 HRAs, mined underground space authority. Eliminates the authority of housing and redevelopment authorities (HRAs) to exercise mined underground space authority powers. Section 17 repeals this authority and the associated TIF districts. This law was enacted in the 1985 legislative session for a potential development in Minneapolis. It has never been used.

2 TIF mined underground space district. Eliminates a reference to mined underground space districts. Section 17 repeals the authority to establish these districts.

3 Housing districts. Eliminates the definition of low income housing and the 20 percent restriction from the definition of housing districts. These provisions are moved from the explicit spending restrictions. The substantive provisions are contained in section 12.

4 TIF mined underground space district. Eliminates a reference to mined underground space districts. Section 17 repeals the authority to establish these districts.

5 Administrative expenses. Clarifies that administrative expenses do not include amounts spent on physical development and relocation benefits paid for locations outside of the district, but within the project area. Principal payments on bonds would not be administrative expenses.

6 Tourism facilities. Makes a conforming change in the definition of the tourism facility to be consistent with the 1999 prohibition on using increments for social and recreational facilities. The 1999 law limited use of increments to privately owned meeting facilities. Amusement and recreational facilities and cultural facilities are not permitted, regardless of whether they are publicly or privately owned.
County road costs. Increases from 30 days to 60 days the time that counties have to submit proposed road improvements to be included in the TIF plan.

Notification of counties. Requires notification of counties and school districts to be sent to the county auditor and clerk of the school district, rather than the boards. The county and school staffers are directed to provide the materials to the boards. In addition, the city is required to provide a draft of the TIF plan. Present law only requires information on economic and fiscal impacts to be provided. This section also clarifies that waiver of the 30-day period may only be made by the boards (not the staff) submitting written comments.

Waiver. Allows waiver of the 30-day notice requirement to individual county commissioners of housing and redevelopment districts. Notice for these types of districts are required to be given to the individual county commissioners in whose districts the TIF district is located. Present law does not permit this 30-day period to be waived, but does permit the 30-day notice period to the county and school boards to be waived. The change in this section provide equivalent waiver authority for the two notices.

But-for test. Eliminates a provision that would allow a municipality to approve a TIF plan (without a but-for finding) by simply failing to act for 60 days after the TIF authority submitted the plan. This section also eliminates a reference to mined underground space districts. Section 17 repeals the authority to establish these districts.

Economic development districts duration. Repeals the 11 year duration limit for economic development districts. This duration limit is calculated from the date of approval of the TIF plan. The nine year limit, measured from the date of receipt of the first increment, is reduced to eight years. However, these districts will still be entitled to receive nine years of increment, since the law measures the eight years from the receipt of the first increment and allows the full increment in the last year to be received. This section also clarifies that waiver of increments does not affect the duration limit. Present law does allow redevelopment, housing, and hazardous substance districts or subdistricts to waive increment, but only in return for a 5-year reduction in their duration limits.

Housing districts, spending authority. Clarifies the authority of housing districts to spend increments. This language is largely moved from the definition section and is intended to resolve an ongoing dispute between the State Auditor and some users of housing districts. The letter of the law requires the entire TIF project to meet the low and moderate income test and percentage of fair market value tests. However, TIF authorities have generally interpreted project to be a narrower concept of the housing development that is actually assisted with tax increments. These districts are occasionally included in large project areas that include planned housing and other development that would not meet the 20 percent test. This section resolves that the 20 percent limit only applies to assistance provided with tax increments from a housing district.

Enforcement of housing district income limits. Provides violations of the housing district income limits are subject to the law that governs all other TIF provisions and transfers responsibility from the commissioner of revenue to the state auditor. Present law provides that the sanction for violating the income limits is that the district reverts to being an economic development district (with a shorter duration limit and an inflation adjustment of original tax capacity). When this law was enacted (1989), it was permissible to use economic development districts for housing developments. In 1990, the law was amended to prohibit this use and the general enforcement provisions were enacted. This enforcement provision for housing districts was not, however, changed. The sanction implies that one could create a housing district, violate the income limits, and thereby qualify as an economic development district. This result could not be achieved by directly creating an economic development district.
Pooling rules, housing districts. Makes a cross reference change in the pooling rules to conform to the changes in the limits on how housing district increments may be spent in sections 3 and 12.

Adjustments to original net capacity. Eliminates the adjustment to original net tax capacity for economic development districts and the provision setting mined underground space district's net tax capacity at zero. Under present law, the original net capacity of an economic development district is adjusted by the average growth in market value in the district in the five years before certification. This is intended to prevent economic development districts from being used to capture inflationary type growth, rather than growth attributable to development.

Enforcement provision, cross reference. Provides that taxpayers may bring private lawsuits for damages for TIF violations involving collection of increment. The cross reference in existing law limits these lawsuits to issues involving collection of increment. This is an apparent mistake in the appropriate cross reference in the 1990 legislation. (This has no effect on actions to enforce by the law by county attorneys or the attorney general.) This change is effective retroactive to the original 1990 law, but does not affecting pending lawsuits.

Repealer. Repeals the mined underground space authority law and the related TIF provisions.