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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. **1175**

02/23/2015 Authored by Mahoney, Gunther, Lien and Moran

The bill was read for the first time and referred to the Committee on Greater Minnesota Economic and Workforce Development Policy

03/12/2015 Adoption of Report: Amended and re-referred to the Committee on Job Growth and Energy Affordability Policy and Finance

1.1 A bill for an act
1.2 relating to economic development; modifying loans and grants for brownfields
1.3 remediation; appropriating money; amending Minnesota Statutes 2014, sections
1.4 116J.551, subdivision 1; 116J.552, subdivision 1; 116J.554, subdivision
1.5 1; 116J.556; 116J.557, subdivisions 1, 2; 116J.558; 116J.571; 116J.5763,
1.6 subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 116J.

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

1.8 Section 1. Minnesota Statutes 2014, section 116J.551, subdivision 1, is amended to read:

1.9 Subdivision 1. **Grant account.** A contaminated site cleanup and development
1.10 grant account is created in the special revenue fund, general fund, petroleum tank fund,
1.11 and remediation fund. Money in any account may be used, as appropriated by law, to
1.12 make grants as provided in ~~section~~ sections 116J.554 and 116J.560, and to pay for the
1.13 commissioner's costs in reviewing applications and making grants. Notwithstanding
1.14 section 16A.28, money appropriated to the accounts for this program from any source
1.15 is available until spent.

1.16 Sec. 2. Minnesota Statutes 2014, section 116J.552, subdivision 1, is amended to read:

1.17 Subdivision 1. **Scope of application.** For purposes of sections 116J.551 to 116J.557
1.18 and 116J.560, the following terms have the meanings given.

1.19 Sec. 3. Minnesota Statutes 2014, section 116J.554, subdivision 1, is amended to read:

1.20 Subdivision 1. **Authority.** (a) The commissioner may make a grant to an applicant
1.21 development authority to pay for up to 75 percent of the project costs for a qualifying site.
1.22 (b) The commissioner may also make a grant to an applicant development authority
1.23 to pay up to 75 percent or \$50,000, whichever is less, toward the cost of performing

2.1 contaminant investigations and the development of a response action plan for a qualifying
2.2 site.

2.3 (c) The commissioner may also make a grant to an applicant to fill a site that would
2.4 represent more than 50 percent of the remaining land in a city suitable for industrial
2.5 development if it were properly filled.

2.6 (d) The determination of whether to make a grant for a qualifying site is within the
2.7 sole discretion of the commissioner, subject to the process provided by this section, and
2.8 available unencumbered money in the appropriation. The commissioner's decisions and
2.9 application of the priorities under ~~section~~ sections 116J.555 and 116J.560 are not subject
2.10 to judicial review, except for abuse of discretion.

2.11 (e) The total amount of money provided in grants under paragraph (b) may not
2.12 exceed \$500,000 per fiscal year.

2.13 (f) In making grants under paragraph (b), the commissioner shall give priority to
2.14 applicants that have not received a grant under paragraph (a) or section 473.252 during
2.15 the year ending on the date of application.

2.16 Sec. 4. Minnesota Statutes 2014, section 116J.556, is amended to read:

2.17 **116J.556 LOCAL MATCH REQUIREMENT.**

2.18 In order to qualify for a grant under sections 116J.551 to 116J.557 and 116J.560, the
2.19 municipality must pay for at least one-quarter of the project costs as a local match. The
2.20 municipality shall pay an amount of the project costs equal to at least 12 percent of the
2.21 cleanup costs from the municipality's general fund, a property tax levy for that purpose, or
2.22 other unrestricted money available to the municipality (excluding tax increments). These
2.23 unrestricted moneys may be spent for project costs, other than cleanup costs, and qualify
2.24 for the local match payment equal to 12 percent of cleanup costs. The rest of the local
2.25 match may be paid with tax increments, regional, state, or federal money available for the
2.26 redevelopment of brownfields or any other money available to the municipality.

2.27 Sec. 5. Minnesota Statutes 2014, section 116J.557, subdivision 1, is amended to read:

2.28 Subdivision 1. **Cause of action.** The attorney general or a development authority
2.29 or municipality that incurs cleanup costs to implement an approved response action plan
2.30 pursuant to sections 116J.551 to 116J.557; and 116J.560 may bring an action under section
2.31 115B.04 or other law to recover the reasonable and necessary cleanup costs incurred by
2.32 the development authority or municipality. The attorney general, development authority,
2.33 or municipality may recover all cleanup costs incurred whether paid from the proceeds of
2.34 a grant under sections 116J.551 to 116J.557 and 116J.560 or funds of the development

3.1 authority or municipality. Recoverable costs include administrative and legal costs related
3.2 to the development and implementation of the response action plan but do not include any
3.3 cost associated with development or redevelopment of property. A development authority
3.4 or municipality must have the consent of the attorney general to bring or settle an action
3.5 under this subdivision to recover cleanup costs paid from the proceeds of a grant.

3.6 Sec. 6. Minnesota Statutes 2014, section 116J.557, subdivision 2, is amended to read:

3.7 Subd. 2. **Procedures.** The commissioner shall notify the attorney general when a
3.8 grant is awarded under sections 116J.551 to 116J.557 and 116J.560. Upon request of
3.9 the attorney general the development authority shall prepare and submit a certification
3.10 of the cleanup costs and shall cooperate in any cost recovery action brought by the
3.11 attorney general under subdivision 1. Certification by the development authority of the
3.12 cleanup costs incurred to develop and implement the approved response action plan is
3.13 prima facie evidence that the costs are reasonable and necessary in any action brought
3.14 under this section.

3.15 Sec. 7. Minnesota Statutes 2014, section 116J.558, is amended to read:

3.16 **116J.558 EFFECT OF ISSUANCE OF GRANTS.**

3.17 The issuance of a contamination cleanup grant under sections 116J.551 to 116J.557
3.18 and 116J.560 has no effect on the responsibility or the liability of the state, under chapter
3.19 115B or any other law, in relation to the contamination at a site or sites for which the
3.20 grant is issued. The issuance of a grant neither implies any state responsibility for the
3.21 contamination nor imposes any obligation on the state to participate in the cleanup of the
3.22 contamination or in the cleanup costs beyond the amount of the grant.

3.23 Sec. 8. **116J.560 BROWNFIELDS REVITALIZATION GRANTS.**

3.24 Subdivision 1. **Grant awards.** Notwithstanding section 116J.554, subdivision
3.25 2, clause (2), the commissioner may award grants to development authorities for the
3.26 cost of implementing an approved response action plan as defined in section 116J.552,
3.27 subdivision 8, without regard to whether development is expected or planned for the site
3.28 at the time the grant application is made.

3.29 Subd. 2. **Priorities.** In considering applications and awarding grants under
3.30 subdivision 1, the commissioner shall utilize the priorities under section 116J.555,
3.31 subdivision 1, paragraph (b), clauses (1), (3), (5), and (6).

4.1 Sec. 9. Minnesota Statutes 2014, section 116J.571, is amended to read:

4.2 **116J.571 CREATION OF ACCOUNTS.**

4.3 Two redevelopment accounts are created, one in the general fund and one in the
4.4 bond proceeds fund. Money for the program: (1) may be used to make grants as provided
4.5 in ~~section~~ sections 116J.560 and 116J.575 and loans as provided in section 116J.5761; (2)
4.6 may be used to pay for the commissioner's costs in reviewing applications and making
4.7 grants and loans; and (3) is available until spent. The repayment of principal and interest
4.8 on loans and investment income earned on money in the account is deposited in the special
4.9 revenue fund and may be used for making grants and loans and for administrative costs
4.10 and are appropriated for such purposes.

4.11 Sec. 10. Minnesota Statutes 2014, section 116J.5763, subdivision 1, is amended to read:

4.12 Subdivision 1. **Priorities.** (a) If applications for loans exceed the available
4.13 appropriations, loans shall be made for projects that, in the commissioner's judgment,
4.14 provide the highest return in public benefits for the public costs incurred. "Public benefits"
4.15 include health, safety and other environmental benefits, blight reduction including
4.16 the property's potential for improved economic vitality, functionality and aesthetics,
4.17 community stabilization, crime reduction, reduced maintenance costs, and the potential
4.18 for future development. In making this judgment, the commissioner shall consider the
4.19 following:

- 4.20 (1) the extent to which the existing property conditions threaten public safety;
4.21 (2) the length of vacancy of the property;
4.22 (3) the development potential of the property;
4.23 (4) the proximity of the property to existing sufficient public infrastructure; and
4.24 (5) the applicant's financial condition and ability to repay the loan.

4.25 (b) The factors in paragraph (a) are not listed in a rank order or priority; rather, the
4.26 commissioner may weigh each factor, depending upon the facts and circumstances, as
4.27 the commissioner considers appropriate. The commissioner may consider other factors
4.28 that affect the net return of public benefits.

4.29 (c) Priority must be given to applications for projects that have received a grant
4.30 under section 116J.560.

4.31 Sec. 11. **BROWNFIELDS REVITALIZATION GRANTS; APPROPRIATION.**

4.32 \$6,000,000 in fiscal year 2016 and \$6,000,000 in fiscal year 2017 are appropriated
4.33 from the general fund to the commissioner of employment and economic development
4.34 for grants under Minnesota Statutes, section 116J.560, for brownfields revitalization. Of

5.1 this amount, \$3,000,000 each year is reserved for projects in greater Minnesota. Any
5.2 funds reserved for projects in greater Minnesota that are not awarded by September 1 of
5.3 each year are available for projects within the metropolitan area as defined in Minnesota
5.4 Statutes, section 473.121, subdivision 2. For the purposes of this section, "greater
5.5 Minnesota" means the area of the state that excludes the metropolitan area as defined in
5.6 Minnesota Statutes, section 473.121, subdivision 2. Funds appropriated under this section
5.7 may be expended in either year of the biennium and are available until June 30, 2019.