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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH
SESSION

HOUSE FILE No. **3109**

February 22, 2010

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The bill was read for the first time and referred to the Committee on Finance

February 25, 2010

By motion, recalled and re-referred to the Committee on State and Local Government Operations Reform, Technology and Elections

1.1 A bill for an act
1.2 relating to energy; authorizing green energy revenue bonds; permitting local
1.3 assessments for energy improvements by cities and counties; amending
1.4 Minnesota Statutes 2008, sections 429.011, by adding subdivisions; 429.021,
1.5 subdivision 1; 429.031, subdivision 3; Minnesota Statutes 2009 Supplement,
1.6 sections 429.011, subdivision 2a; 469.153, subdivision 2; proposing coding for
1.7 new law in Minnesota Statutes, chapter 469.

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

1.9 Section 1. Minnesota Statutes 2009 Supplement, section 429.011, subdivision 2a,
1.10 is amended to read:

1.11 Subd. 2a. **Municipality; certain counties.** "Municipality" also includes the
1.12 following:

1.13 (1) a county in the case of construction, reconstruction, or improvement of a county
1.14 state-aid highway;

1.15 (2) a county in the case of construction, reconstruction, or improvement of a county
1.16 highway as defined in section 160.02 including curbs and gutters and storm sewers;

1.17 (3) a county exercising its powers and duties under section 444.075, subdivision 1;

1.18 (4) a county for expenses not paid for under section 403.113, subdivision 3,
1.19 paragraph (b), clause (3); ~~and~~

1.20 (5) a county in the case of the abatement of nuisances; and

1.21 (6) a county in the case of on-site energy conservation and renewable energy
1.22 improvements.

1.23 Sec. 2. Minnesota Statutes 2008, section 429.011, is amended by adding a subdivision
1.24 to read:

2.1 Subd. 2c. **Municipality, energy conservation and renewable energy**
 2.2 **improvements.** For purposes of construction, improvement, alteration, and reconstruction
 2.3 of an on-site energy conservation and renewable energy system, a municipality may
 2.4 provide the improvements through and impose special assessments upon the request
 2.5 of a port authority, economic development authority, industrial development authority,
 2.6 or housing and redevelopment authority.

2.7 Sec. 3. Minnesota Statutes 2008, section 429.011, is amended by adding a subdivision
 2.8 to read:

2.9 Subd. 17. **On-site energy conservation and renewable energy improvements.**
 2.10 "On-site energy conservation and renewable energy improvements" means any type of
 2.11 active or passive improvement, including insulation; windows or doors; heating, cooling,
 2.12 or other building systems; lighting systems; energy-related process or manufacturing
 2.13 changes; energy demand monitoring and regulation equipment; and any other type of
 2.14 device, improvement, or equipment installed in a building and its property and equipment
 2.15 for on-site renewable energy generation including, but not limited to, solar photovoltaics
 2.16 and solar thermal, as well as energy storage devices that may include mobile equipment
 2.17 charging capability, whether the devices, equipment, or improvements so installed are
 2.18 publicly or privately owned.

2.19 Sec. 4. Minnesota Statutes 2008, section 429.021, subdivision 1, is amended to read:

2.20 Subdivision 1. **Improvements authorized.** The council of a municipality shall have
 2.21 power to make the following improvements:

2.22 (1) To acquire, open, and widen any street, and to improve the same by constructing,
 2.23 reconstructing, and maintaining sidewalks, pavement, gutters, curbs, and vehicle parking
 2.24 strips of any material, or by grading, graveling, oiling, or otherwise improving the same,
 2.25 including the beautification thereof and including storm sewers or other street drainage
 2.26 and connections from sewer, water, or similar mains to curb lines.

2.27 (2) To acquire, develop, construct, reconstruct, extend, and maintain storm and
 2.28 sanitary sewers and systems, including outlets, holding areas and ponds, treatment plants,
 2.29 pumps, lift stations, service connections, and other appurtenances of a sewer system,
 2.30 within and without the corporate limits.

2.31 (3) To construct, reconstruct, extend, and maintain steam heating mains.

2.32 (4) To install, replace, extend, and maintain street lights and street lighting systems
 2.33 and special lighting systems.

3.1 (5) To acquire, improve, construct, reconstruct, extend, and maintain water works
3.2 systems, including mains, valves, hydrants, service connections, wells, pumps, reservoirs,
3.3 tanks, treatment plants, and other appurtenances of a water works system, within and
3.4 without the corporate limits.

3.5 (6) To acquire, improve and equip parks, open space areas, playgrounds, and
3.6 recreational facilities within or without the corporate limits.

3.7 (7) To plant trees on streets and provide for their trimming, care, and removal.

3.8 (8) To abate nuisances and to drain swamps, marshes, and ponds on public or private
3.9 property and to fill the same.

3.10 (9) To construct, reconstruct, extend, and maintain dikes and other flood control
3.11 works.

3.12 (10) To construct, reconstruct, extend, and maintain retaining walls and area walls.

3.13 (11) To acquire, construct, reconstruct, improve, alter, extend, operate, maintain, and
3.14 promote a pedestrian skyway system. Such improvement may be made upon a petition
3.15 pursuant to section 429.031, subdivision 3.

3.16 (12) To acquire, construct, reconstruct, extend, operate, maintain, and promote
3.17 underground pedestrian concourses.

3.18 (13) To acquire, construct, improve, alter, extend, operate, maintain, and promote
3.19 public malls, plazas or courtyards.

3.20 (14) To construct, reconstruct, extend, and maintain district heating systems.

3.21 (15) To construct, reconstruct, alter, extend, operate, maintain, and promote fire
3.22 protection systems in existing buildings, but only upon a petition pursuant to section
3.23 429.031, subdivision 3.

3.24 (16) To acquire, construct, reconstruct, improve, alter, extend, and maintain highway
3.25 sound barriers.

3.26 (17) To improve, construct, reconstruct, extend, and maintain gas and electric
3.27 distribution facilities owned by a municipal gas or electric utility.

3.28 (18) To purchase, install, and maintain signs, posts, and other markers for addressing
3.29 related to the operation of enhanced 911 telephone service.

3.30 (19) To improve, construct, extend, and maintain facilities for Internet access and
3.31 other communications purposes, if the council finds that:

3.32 (i) the facilities are necessary to make available Internet access or other
3.33 communications services that are not and will not be available through other providers or
3.34 the private market in the reasonably foreseeable future; and

3.35 (ii) the service to be provided by the facilities will not compete with service provided
3.36 by private entities.

4.1 (20) To assess affected property owners for all or a portion of the costs agreed to
 4.2 with an electric utility, telecommunications carrier, or cable system operator to bury or
 4.3 alter a new or existing distribution system within the public right-of-way that exceeds the
 4.4 utility's design and construction standards, or those set by law, tariff, or franchise, but only
 4.5 upon petition under section 429.031, subdivision 3.

4.6 (21) To construct, reconstruct, improve, alter, and maintain on-site energy
 4.7 conservation and renewable energy improvements for buildings and property, but only
 4.8 upon a petition under section 429.031, subdivision 3. The activities under this clause
 4.9 may also be undertaken by a port authority, economic development authority, industrial
 4.10 development authority, or housing and redevelopment authority, and the municipality may
 4.11 act on the request of those entities in imposing special assessments.

4.12 Sec. 5. Minnesota Statutes 2008, section 429.031, subdivision 3, is amended to read:

4.13 Subd. 3. **Petition by all owners.** Whenever all owners of real property abutting
 4.14 upon any street named as the location of any improvement shall petition the council to
 4.15 construct the improvement and to assess the entire cost against their property, the council
 4.16 may, without a public hearing, adopt a resolution determining such fact and ordering the
 4.17 improvement. The validity of the resolution shall not be questioned by any taxpayer
 4.18 or property owner or the municipality unless an action for that purpose is commenced
 4.19 within 30 days after adoption of the resolution as provided in section 429.036. Nothing
 4.20 herein prevents any property owner from questioning the amount or validity of the special
 4.21 assessment against the owner's property pursuant to section 429.081. In the case of a
 4.22 petition for the municipality to own and install a fire protection system, a pedestrian
 4.23 skyway system, on-site energy conservation and renewable energy improvements, or
 4.24 on-site water contaminant improvements, the petition must contain or be accompanied
 4.25 by an undertaking satisfactory to the city by the petitioner that the petitioner will grant
 4.26 the municipality the necessary property interest in the building to permit the city to enter
 4.27 upon the property and the building to construct, maintain, and operate the fire protection
 4.28 system, pedestrian skyway system, on-site energy conservation and renewable energy
 4.29 improvements, or on-site water contaminant improvements. In the case of a petition for
 4.30 the installation of a privately owned fire protection system, a privately owned pedestrian
 4.31 skyway system, privately owned on-site energy conservation and renewable energy
 4.32 improvements, or privately owned on-site water contaminant improvements, the petition
 4.33 shall contain the plans and specifications for the improvement, the estimated cost of the
 4.34 improvement and a statement indicating whether the city or the owner will contract for
 4.35 the construction of the improvement. If the owner is contracting for the construction

5.1 of the improvement, the city shall not approve the petition until it has reviewed and
5.2 approved the plans, specifications, and cost estimates contained in the petition. The
5.3 construction cost financed under section 429.091 shall not exceed the amount of the cost
5.4 estimate contained in the petition. In the case of a petition for the installation of a fire
5.5 protection system, a pedestrian skyway system, on-site energy conservation and renewable
5.6 energy improvements, or on-site water contaminant improvements, the petitioner may
5.7 request abandonment of the improvement at any time after it has been ordered pursuant
5.8 to subdivision 1 and before contracts have been awarded for the construction of the
5.9 improvement under section 429.041, subdivision 2. If such a request is received, the city
5.10 council shall abandon the proceedings but in such case the petitioner shall reimburse the
5.11 city for any and all expenses incurred by the city in connection with the improvement.

5.12 Sec. 6. Minnesota Statutes 2009 Supplement, section 469.153, subdivision 2, is
5.13 amended to read:

5.14 Subd. 2. **Project.** (a) "Project" means (1) any properties, real or personal, used
5.15 or useful in connection with a revenue producing enterprise, or any combination of
5.16 two or more such enterprises engaged or to be engaged in generating, transmitting, or
5.17 distributing electricity, assembling, fabricating, manufacturing, mixing, processing,
5.18 storing, warehousing, or distributing any products of agriculture, forestry, mining, or
5.19 manufacture, or in research and development activity in this field, or in the manufacturing,
5.20 creation, or production of intangible property, including any patent, copyright, formula,
5.21 process, design, know-how, format, or other similar item; (2) any properties, real or
5.22 personal, used or useful in the abatement or control of noise, air, or water pollution, or in
5.23 the disposal of solid wastes, in connection with a revenue producing enterprise, or any
5.24 combination of two or more such enterprises engaged or to be engaged in any business
5.25 or industry; (3) any properties, real or personal, used or useful in connection with the
5.26 business of telephonic communications, conducted or to be conducted by a telephone
5.27 company, including toll lines, poles, cables, switching, and other electronic equipment
5.28 and administrative, data processing, garage, and research and development facilities;
5.29 (4) any properties, real or personal, used or useful in connection with a district heating
5.30 system, consisting of the use of one or more energy conversion facilities to produce hot
5.31 water or steam for distribution to homes and businesses, including cogeneration facilities,
5.32 distribution lines, service facilities, and retrofit facilities for modifying the user's heating
5.33 or water system to use the heat energy converted from the steam or hot water.

6.1 (b) "Project" also includes any properties, real or personal, used or useful in
6.2 connection with a revenue producing enterprise, or any combination of two or more
6.3 such enterprises engaged in any business.

6.4 (c) "Project" also includes any properties, real or personal, used or useful for the
6.5 promotion of tourism in the state. Properties may include hotels, motels, lodges, resorts,
6.6 recreational facilities of the type that may be acquired under section 471.191, and related
6.7 facilities.

6.8 (d) "Project" also includes any properties, real or personal, used or useful in
6.9 connection with a revenue producing enterprise, whether or not operated for profit,
6.10 engaged in providing health care services, including hospitals, nursing homes, and related
6.11 medical facilities.

6.12 (e) "Project" does not include any property to be sold or to be affixed to or consumed
6.13 in the production of property for sale, and does not include any housing facility to be
6.14 rented or used as a permanent residence.

6.15 (f) "Project" also means the activities of any revenue producing enterprise involving
6.16 the construction, fabrication, sale, purchase, or leasing of equipment or products to be
6.17 used in the reduction of energy demand and in gathering, processing, generating, storing,
6.18 transmitting, or distributing solar, wind, geothermal, biomass, agricultural or forestry
6.19 energy crops, or other alternative energy sources for use by any person or any residential,
6.20 commercial, industrial, or governmental entity in heating, cooling, or otherwise providing
6.21 energy for a facility owned or operated by that person or entity.

6.22 (g) "Project" also includes any properties, real or personal, used or useful in
6.23 connection with a county jail, county regional jail, community corrections facilities
6.24 authorized by chapter 401, or other law enforcement facilities, the plans for which are
6.25 approved by the commissioner of corrections; provided that the provisions of section
6.26 469.155, subdivisions 7 and 13, do not apply to those projects.

6.27 (h) "Project" also includes any real properties used or useful in furtherance of the
6.28 purpose and policy of section 469.141.

6.29 (i) "Project" also includes related facilities as defined by section 471A.02,
6.30 subdivision 11.

6.31 (j) "Project" also includes an undertaking to purchase the obligations of local
6.32 governments located in whole or in part within the boundaries of the municipality that are
6.33 issued or to be issued for public purposes.

6.34 (k) "Project" also includes any properties designated as a qualified green building
6.35 and sustainable design project under section 469.1655.

7.1 Sec. 7. **[469.1655] QUALIFIED GREEN BUILDING AND SUSTAINABLE**
7.2 **DESIGN PROJECTS.**

7.3 Subdivision 1. **Project designation and eligibility.** (a) A municipality or
7.4 redevelopment agency issuing revenue bonds under sections 469.152 to 469.165 may
7.5 designate the project for which the bonds are issued as a qualified green building and
7.6 sustainable design project as provided in this section.

7.7 (b) The issuer must ensure that each designated project substantially:

7.8 (1) reduces consumption of electricity compared to conventional construction;

7.9 (2) reduces daily carbon dioxide emissions compared to energy generated from coal;

7.10 (3) increases the use of solar photovoltaic cells in this state; or

7.11 (4) increases the use of fuel cells to generate energy.

7.12 (c) Before designating a project under this section, the issuer must document in
7.13 writing that the project will satisfy the eligibility criteria in this section.

7.14 (d) At least 75 percent of the square footage of commercial buildings that are part of
7.15 the project must be registered with a recognized green building rating system, including
7.16 Minnesota's sustainable building guidelines or the United States Green Building Council's
7.17 LEED certification, or in the case of residential buildings, Minnesota GreenStar rating,
7.18 and must be reasonably expected to receive the certification.

7.19 Subd. 2. **Applications.** An application for designation under this section must
7.20 include a project proposal that describes the energy-efficiency, renewable energy, and
7.21 sustainable design features of the project and demonstrates that the project satisfies the
7.22 eligibility criteria in this section. The application must include a description of:

7.23 (1) the amount of electric consumption reduced as compared to conventional
7.24 construction;

7.25 (2) the amount of carbon dioxide daily emissions reduced compared to energy
7.26 generated from coal;

7.27 (3) the amount of the gross installed capacity of the project's solar photovoltaic
7.28 capacity measured in megawatts; and

7.29 (4) the amount in megawatts of the project's energy generated by fuel cells.

7.30 Subd. 3. **Use of bond financing.** The project proposal must include a description of
7.31 the bond financing that will be allocated for financing of one or more of the following:

7.32 (1) the purchase, construction, integration, or other use of energy-efficiency,
7.33 renewable energy, and sustainable design features of the project; or

7.34 (2) compliance with certification standards cited under subdivision 1, paragraph (d).

7.35 **EFFECTIVE DATE.** This section is effective for bonds issued after June 30, 2010.