

SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION

S.F. No. 5235

(SENATE AUTHORS: REST)

DATE	D-PG	OFFICIAL STATUS
04/02/2024	13331	Introduction and first reading Referred to Taxes See HF5237

1.1

A bill for an act

1.2

relating to taxation; public financing; modifying local government debt financing;

1.3

amending Minnesota Statutes 2022, sections 123B.71, subdivision 8; 446A.086,

1.4

subdivision 1; 469.104; 474A.091, subdivisions 2, 2a; Minnesota Statutes 2023

1.5

Supplement, sections 123B.71, subdivision 12; 126C.40, subdivision 6.

1.6

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

1.7

Section 1. Minnesota Statutes 2022, section 123B.71, subdivision 8, is amended to read:

1.8

Subd. 8. **Review and comment.** A school district, a special education cooperative, or

1.9

a cooperative unit of government, as defined in section 123A.24, subdivision 2, must not

1.10

~~initiate~~ enter into an installment contract for purchase or a lease agreement, hold a referendum

1.11

for bonds, nor solicit bids for new construction, expansion, or remodeling of an educational

1.12

facility that requires an expenditure in excess of \$500,000 per school site if it has a capital

1.13

loan outstanding, or \$2,000,000 per school site if it does not have a capital loan outstanding,

1.14

prior to review and comment by the commissioner. ~~A facility addition, maintenance project,~~

1.15

~~or remodeling project~~ New construction, expansion, or remodeling of an educational facility

1.16

funded only with general education revenue, lease levy proceeds from an additional capital

1.17

expenditure levy under section 126C.40, subdivision 1, capital facilities bond proceeds, or

1.18

long-term facilities maintenance revenue is exempt from this provision. A capital project

1.19

under section 123B.63 addressing only technology is exempt from this provision if the

1.20

district submits a school board resolution stating that funds approved by the voters will be

1.21

used only as authorized in section 126C.10, subdivision 14. A school board shall not separate

1.22

portions of a single project into components to avoid the requirements of this subdivision.

2.1 Sec. 2. Minnesota Statutes 2023 Supplement, section 123B.71, subdivision 12, is amended
2.2 to read:

2.3 Subd. 12. **Publication.** (a) At least 48 days but not more than ~~60~~ 88 days before a
2.4 referendum for bonds under chapter 475 or solicitation of bids for a project that has received
2.5 a positive or unfavorable review and comment under section 123B.70, the school board
2.6 shall publish a summary of the commissioner's review and comment of that project in the
2.7 legal newspaper of the district. The school board must hold a public meeting to discuss the
2.8 commissioner's review and comment before ~~the~~ such a referendum for bonds. Supplementary
2.9 information shall be available to the public. Where no such referendum for bonds is required,
2.10 the publication and public meeting requirements of this subdivision shall not apply.

2.11 (b) The publication requirement in paragraph (a) does not apply to alternative facilities
2.12 projects approved under section 123B.595.

2.13 Sec. 3. Minnesota Statutes 2023 Supplement, section 126C.40, subdivision 6, is amended
2.14 to read:

2.15 Subd. 6. **Lease purchase; installment buys.** (a) Upon application to, and approval by,
2.16 the commissioner in accordance with the procedures and limits in subdivision 1, paragraphs
2.17 (a) and (b), a district, as defined in this subdivision, may:

2.18 (1) purchase real or personal property under an installment contract or may lease real
2.19 or personal property with an option to purchase under a lease purchase agreement, by which
2.20 installment contract or lease purchase agreement title is kept by the seller or vendor or
2.21 assigned to a third party as security for the purchase price, including interest, if any; and

2.22 (2) annually levy the amounts necessary to pay the district's obligations under the
2.23 installment contract or lease purchase agreement.

2.24 (b) The obligation created by the installment contract or the lease purchase agreement
2.25 must not be included in the calculation of net debt for purposes of section 475.53, and does
2.26 not constitute debt under other law. An election is not required in connection with the
2.27 execution of the installment contract or the lease purchase agreement.

2.28 (c) The proceeds of the levy authorized by this subdivision must not be used to acquire
2.29 a facility to be primarily used for athletic or school administration purposes.

2.30 (d) For the purposes of this subdivision, "district" means:

2.31 (1) Special School District No. 1, Minneapolis, Independent School District No. 625,
2.32 St. Paul, Independent School District No. 709, Duluth, or Independent School District No.

535, Rochester, if the district's desegregation plan has been determined by the commissioner to be in compliance with Department of Education rules relating to equality of educational opportunity and where the acquisition of property under this subdivision is determined by the commissioner to contribute to the implementation of the desegregation plan; or

(2) other districts eligible for revenue under section 124D.862 if the facility acquired under this subdivision is to be primarily used for a joint program for interdistrict desegregation and the commissioner determines that the joint programs are being undertaken to implement the districts' desegregation plan.

(e) Notwithstanding subdivision 1, the prohibition against a levy by a district to lease or rent a district-owned building to itself does not apply to levies otherwise authorized by this subdivision.

(f) For the purposes of this subdivision, any references in subdivision 1 to building or land shall include personal property.

(g) Projects funded under this subdivision that require an expenditure in excess of \$500,000 per school site if the school district has a capital loan outstanding, or \$2,000,000 per school site if the school district does not have a capital loan outstanding, are subject to review and comment under section 123B.71, subdivision 8, in the same manner as other school construction projects.

Sec. 4. Minnesota Statutes 2022, section 446A.086, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) As used in this section, the following terms have the meanings given.

(b) "Authority" means the Minnesota Public Facilities Authority.

(c) "Commissioner" means the commissioner of management and budget.

(d) "Debt obligation" means:

(1) a general obligation bond or note issued by a county, a bond or note to which the general obligation of a county is pledged under section 469.034, subdivision 2, or a bond or note payable from a county lease obligation under section 641.24, to provide funds for the construction of:

(i) jails;

(ii) correctional facilities;

(iii) law enforcement facilities;

4.1 (iv) a court house or justice center, if connected to a jail, correctional facility, or other
4.2 law enforcement facility;

4.3 ~~(iv)~~ (v) social services and human services facilities;

4.4 ~~(v)~~ (vi) solid waste facilities; or

4.5 ~~(vi)~~ (vii) qualified housing development projects as defined in section 469.034,
4.6 subdivision 2; or

4.7 (2) a general obligation bond or note issued by a governmental unit to provide funds for
4.8 the construction, improvement, or rehabilitation of:

4.9 (i) wastewater facilities;

4.10 (ii) drinking water facilities;

4.11 (iii) stormwater facilities; or

4.12 (iv) any publicly owned building or infrastructure improvement that has received partial
4.13 funding from grants awarded by the commissioner of employment and economic development
4.14 related to redevelopment, contaminated site cleanup, bioscience, small cities development
4.15 programs, and rural business infrastructure programs, for which bonds are issued by the
4.16 authority under section 446A.087.

4.17 (e) "Governmental unit" means a county or a statutory or home rule charter city.

4.18 Sec. 5. Minnesota Statutes 2022, section 469.104, is amended to read:

4.19 **469.104 SECTIONS THAT APPLY IF FEDERAL LIMIT APPLIES.**

4.20 Sections 474A.01 to 474A.21 apply to obligations issued under sections 469.090 to
4.21 469.108 that are ~~limited~~ required by federal tax law as defined in section 474A.02,
4.22 subdivision 8, to obtain an allocation of volume cap.

4.23 Sec. 6. Minnesota Statutes 2022, section 474A.091, subdivision 2, is amended to read:

4.24 Subd. 2. **Application for residential rental projects.** (a) Issuers may apply for an
4.25 allocation for residential rental bonds under this section by submitting to the department an
4.26 application on forms provided by the department accompanied by:

4.27 (1) a preliminary resolution;

4.28 (2) a statement of bond counsel that the proposed issue of obligations requires an
4.29 allocation under this chapter and the Internal Revenue Code;

(3) an application deposit in the amount of two percent of the requested allocation;

(4) a sworn statement from the applicant identifying the project as a preservation project, 30 percent AMI residential rental project, 50 percent AMI residential rental project, 100 percent LIHTC project, 20 percent LIHTC project, or any other residential rental project; and

(5) a certification from the applicant or its accountant stating that the requested allocation does not exceed the aggregate bond limitation.

The issuer must pay the application deposit to the Department of Management and Budget. An entitlement issuer may not apply for an allocation for residential rental project bonds under this section unless it has either permanently issued bonds equal to the amount of its entitlement allocation for the current year plus any amount carried forward from previous years or returned for reallocation all of its unused entitlement allocation. For purposes of this subdivision, its entitlement allocation includes an amount obtained under section 474A.04, subdivision 6.

(b) An issuer that receives an allocation under this subdivision must permanently issue obligations equal to all or a portion of the allocation received on or before the earlier of:
(1) 180 days of the allocation; or (2) the last business day of December. If an issuer that receives an allocation under this subdivision does not permanently issue obligations equal to all or a portion of the allocation received within the time period provided in this paragraph or returns the allocation to the commissioner, the amount of the allocation is canceled and returned for reallocation through the unified pool.

(c) The Minnesota Housing Finance Agency may apply for and receive an allocation under this section without submitting an application deposit.

Sec. 7. Minnesota Statutes 2022, section 474A.091, subdivision 2a, is amended to read:

Subd. 2a. **Application for all other types of qualified bonds.** (a) Issuers may apply for an allocation for all types of qualified bonds other than residential rental bonds under this section by submitting to the department an application on forms provided by the department accompanied by:

(1) a preliminary resolution;

(2) a statement of bond counsel that the proposed issue of obligations requires an allocation under this chapter and the Internal Revenue Code;

(3) the type of qualified bonds to be issued;

(4) an application deposit in the amount of two percent of the requested allocation; and

(5) a public purpose scoring worksheet for manufacturing and enterprise zone applications.

The issuer must pay the application deposit to the Department of Management and Budget.

An entitlement issuer may not apply for an allocation for public facility bonds or mortgage bonds under this section unless it has either permanently issued bonds equal to the amount of its entitlement allocation for the current year plus any amount carried forward from previous years or returned for reallocation all of its unused entitlement allocation. For purposes of this subdivision, an entitlement allocation includes an amount obtained under section 474A.04, subdivision 6.

(b) An issuer that receives an allocation under this subdivision must permanently issue obligations equal to all or a portion of the allocation received on or before the earlier of:
(1) 120 days of the allocation; or (2) the last business day of December. If an issuer that receives an allocation under this subdivision does not permanently issue obligations equal to all or a portion of the allocation received within the time period provided in this paragraph or returns the allocation to the commissioner, the amount of the allocation is canceled and returned for reallocation through the unified pool.

(c) Notwithstanding the restrictions imposed on entitlement issuers under this subdivision, the Minnesota Housing Finance Agency may not receive an allocation for mortgage bonds under this section prior to the first Monday in October, but may be awarded allocations for mortgage bonds from the unified pool on or after the first Monday in October. The Minnesota Housing Finance Agency, the Minnesota Office of Higher Education, and the Minnesota Rural Finance Authority may apply for and receive an allocation under this section without submitting an application deposit.