HOUSE RESEARCH

Bill Summary

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Overview

This bill authorizes the commissioner of the Department of Employment and Economic Development (DEED) to designate Green Job Zones (GJZ). These zones are intended to encourage development of businesses that manufacture products that reduce environmental impacts or that increase the efficiency of the use of resources, such as energy, water and materials. Zones would be required to be sited on brownfields or vacant manufacturing plants. In addition, the St. Paul Ford Motor Company plant site would qualify if it is used to manufacture vehicles with fuel economy that is superior to the vehicles that are manufactured there now. No limits are imposed on the number of zones that may be designated, but the authority to designate zones ends on December 31, 2015.
The tax incentives are very similar to those available under the JOBZ program, except no property tax exemption is provided. Qualifying businesses operating in the zones are exempt from sales, income, and corporate franchise taxes, and a refundable jobs credit is available for a portion of increased payroll. Individuals who invest in zone businesses would be exempt on their business income attributable to activity in the zone, as well as capital gain taxes on zone investments. The zones (and the tax incentives) would have a maximum duration of 12 years.

Section

1 **Unemployment compensation data access.** Provides the State Auditor access to unemployment compensation data for purposes of audits of GJZ, following the provisions that apply to JOBZ. This section also grants access to this data for other agencies responsible for monitoring compliance with business subsidy agreements under JOBZ and GJZ; this would extend the authority to both DEED and to the local development authority that entered the business subsidy agreement.

2 **Tax data practices.** Adds GJZ references to the tax data practices law authorizing DEED and local development authority access to otherwise confidential tax data, paralleling the provisions for JOBZ.

3 **Auditor access; tax data.** Adds GJZ references to the tax data practices law providing the State Auditor and Legislative Auditor access to otherwise confidential tax data, paralleling the provisions for JOBZ.

4 **Annual reporting requirement.** Requires businesses qualified to receive GJZ tax benefits to file an annual report with the Department of Revenue (DOR) by October 15th. This report lists the tax benefits received by the business during the previous year. Failure to file the report without good cause can result in the business losing the ability to qualify for future tax benefits under GJZ and being required to repay past benefits.

5 **Individual income tax exemption.** Provides that income derived from investing in or operating a qualified business in a GJZ is exempt from individual income taxation. The details of this exemption are described in the summary of section 22.

6 **Corporation franchise tax exemption.** Provides income from operating a qualified business in a GJZ is deductible in calculating taxable income under the corporate franchise tax. The details of this exemption are described in the summary of section 23.

7 **Individual income tax exemption, nonresidents.** Provides that in calculating the Minnesota tax for a nonresident, GJZ income is excluded from both the numerator and denominator of the ratio. Nonresidents calculate their Minnesota tax by determining the Minnesota tax on their total income (both Minnesota and non-Minnesota). The Minnesota liability is, then, determined by multiplying this amount by a fraction, the numerator of which is Minnesota source income and the denominator of which is total income.

8 **Jobs credit.** Provides that the jobs credit applies against chapter 290 taxes (regular and alternative minimum tax under both the individual income and corporate franchise taxes). A summary of the rules for this credit is found in section 24.

9 **Dependent care credit.** Clarifies that tax-exempt GJZ income reduces the amount of the dependent care credit that is allowed. For example, if one-quarter of the taxpayer's income were tax-exempt GJZ income, the otherwise applicable dependent care credit would be reduced by 25 percent. This is the same treatment that applies to tax-exempt reservation income of American Indians and to part-year residents.

10 **Working family credit.** Clarifies that tax-exempt GJZ income reduces the amount of the working family credit that is allowed. This is the same treatment described in section 9 for the dependent care credit and is consistent with the treatment of other forms of tax-exempt income.

11 **Individual alternative minimum taxable income.** Allows a subtraction from individual alternative minimum taxable income for tax-exempt GJZ income.

12 **Corporate alternative minimum taxable income.** Allows a subtraction from corporate alternative minimum taxable income for tax-exempt GJZ income.

13 **Minimum fee exemption.** Exempts any qualified business with all of its Minnesota payroll

and property in a GJZ from the minimum fees that apply to businesses.

14 **Minimum fee modification.** Excludes zone payroll and zone property of a qualified business in a GJZ from the calculation of the minimum fee.

15 **Sales tax exemptions.** Provides a sales tax exemption for businesses located in a GJZ. To qualify for this exemption, the goods or taxable services must be primarily used in the zone and purchased during the duration of the zone. The exemption extends to contractor purchases (if the final use of the property is in the zone) and to local sales taxes. The sale and delivery must be made after the business has signed a business subsidy agreement.

16 **Definitions.** Defines terms for purposes of the green jobs zone statute.

- **Applicant** is a local unit of government or a joint powers board applying for designation of a GJZ.
- **Commissioner** is the commissioner of DEED.
- **Expansion** is an enlargement of a business facility on the same parcel or a contiguous parcel.
- **GJZ** means a zone designated designed under section 20.
- **GJZ payroll factor** is the wage and salaries paid to employees for services performed in the zone or to employees working from offices in the zone, if work outside the zone is incidental to that in the zone.
- **GJZ percentage** is a fraction used to apportion income to the zone for a business operating both within and outside of the zone. The percentage is the average of the zone payrolls and property over total Minnesota payrolls and property.
- **Local government unit** is a city, county, town, Iron Range Resources and Rehabilitation Agency, regional development commission, or a federally designated economic development district.
- **Person** includes individual, corporations, partnerships, limited liability companies, and any other entity.
- **Qualified business** is a business that operates in a GJZ that has entered into a business subsidy agreement with the local government unit. The agreement must be approved by DEED and provide for the repayment of tax benefits. In addition, relocations do not qualify unless the number of full time equivalent employees increases by at least 10 percent. (These rules parallel the existing JOBZ rules.) In addition, a line of business requirements applies; a business can qualify by:
  - Manufacturing products used in building, transport, consumer and industrial products that reduce environmental impacts or increase the efficiency of the use of resources; or
  - Manufacturing motor vehicles with superior fuel economy to the vehicles previously manufactured at the site. (This applies only to the Ford plant site

in St. Paul.)

- **Relocation** is defined as either closing a facility and relocating it to a GJZ or reducing employment at another Minnesota location that is engaged in the same line of business as the operation in the GJZ. It does not apply to new facilities or expansions that do not supplant or replace another Minnesota operation or employment.

17 **GJZ Limitations.** Limits the location where GJZ may be designated to:

- Brownfields
- Parcels containing vacant manufacturing facilities
- The Ford Motor Company plant in St. Paul

If a GJZ is designated in a border city development zone, the GJZ parcels must be removed from the border city development zone.

GJZ have 12-year duration. Authority to designate GJZs ends on December 31, 2015.

18 **Applications for Designation.** Authorizes local government units, singly or jointly, to apply to DEED for designations of GJZs in their jurisdiction. DEED specifies the form and content of the applications. The section sets out criteria for DEED to use in reviewing both (1) applications for designation as zones and (2) business subsidy agreements.

Criteria for designating GJZ include:

- Whether local or Minnesota competitors will be significantly and adversely affected;
- Whether the job creation, job retention, and capital investment are commensurate with the tax benefits;
- Whether the zone location has access to public transportation and is in an area with high unemployment;
- Whether other financial assistance is available.

The **criteria for reviewing business subsidy agreements** essentially require DEED to consider whether the business would not have invested in a Minnesota location without receiving the GJZ tax benefit.

19 **Business subsidy agreements.** Establishes requirements for business subsidy agreements. These agreements must:

- Be approved by DEED.
- Require the qualified business to create or retain a minimum number of jobs.
- Require the business to report all jobs created or retained as a separate location for purposes of unemployment compensation reporting.
- Require the business to provide a data practices release to DOR and DEED to

monitor compliance with GJZ.

DEED is directed to establish a standard form for the agreements.

Reporting requirements. The local government unit must report to DEED on the progress in meeting the goals of the agreement starting on the 2-year anniversary of its adoption and annually after that. DEED can remove a business from the program if it fails to provide the local government with the information necessary to report.

Before approving a business subsidy agreement, the local government unit must publish notice in the newspaper and hold a public hearing.

20 **Designation of GJZ.** Authorizes the commissioner of DEED to continuously designate zones, subject to the location requirements in section 17. The commissioner is to have a goal of distributing the zones around the state. The commissioner's actions are not treated as rule making for purposes of the Administrative Procedures Act.

21 **Tax incentives available in GJZ.** Provides that the following tax incentives are available to qualified businesses operating in a GJZ:

- Individual income tax exemption (see the description in section 22)
- Corporate franchise tax exemption (see the description in section 23)
- Sales tax exemption (see the description in section 15)
- Refundable jobs credit (see the description in section 24)

22 **Individual income tax exemption.** Provides income tax exemptions for individuals operating businesses in zones or investing in zones. These exemptions only apply if the income would otherwise be taxable. These rules parallel the individual income tax exemption for JOBZ businesses.

Rents. Rental income derived from renting real or personal property in a GJZ to a qualified business is exempt. Rents from personal property used inside and outside of the GJZ would be apportioned based on the number of days it is used in the GJZ.

Business income. Income from operating a qualified business in a GJZ is exempt. If the business operates both within and outside of the zone, the income must be apportioned using the share of property and payroll located in the zone to the total property and payroll of the taxpayer. The exemption is limited so that the exempt income (determined by using the apportionment mechanism) cannot exceed 20 percent of the sum of the zone payroll and the original adjusted basis of the investment in the zone.

Capital gains. Capital gains derived from sale or exchange of real property by a qualified business is exempt. If the holding period extends beyond the designation of GJZ, the exemption is pro-rated. Similar exemptions apply to sales and exchanges of personal property used by a qualified business or by sale of a qualified business itself that operates in a GJZ.

23 **Corporate franchise tax exemption.** Provides that a qualified business operating in a GJZ is exempt from the corporate franchise tax. If the entire business operates in the zone, the corporation is fully exempt from taxation under the corporate franchise tax and would not be required to file a return. If the corporation does business both within and outside of the zone, the following rules apply:

- **Regular tax.** The corporation's taxable net income is multiplied by its zone percentage (average property and payroll in the zone divided by total Minnesota property and payroll) and subtracted from its taxable income.

- **AMT**. The corporation's alternative minimum taxable income is multiplied by the zone percentage and this amount is subtracted from the taxable income.

- **Minimum fee**. Its zone property and payroll are excluded from calculating the minimum fee.

The exemption is limited in the same manner as the exemption for business income reported through the individual income tax: the maximum exemption allowed is 20 percent of the (1) corporation's GJZ payroll and (2) the adjusted basis of property when the property was first used by the corporation in the zone.

24 **Jobs credit.** Provides a job credit to a qualified business operating in a GJZ equal to 7 percent of:

- the increase in the business payroll in the zone since the year of designation, (but excluding amounts paid to an employee in excess of JOBZ maximum per year) minus
- the increase in the number of FTEs in the zone since designation multiplied by JOBZ wage threshold.

Inflation adjustment. The maximum and wage threshold are defined by reference to the JOBZ law, and are annually adjusted for inflation.

Refundable. The credit is refundable.

25 **Repayment of tax benefits by businesses no longer operating in GJZ.** Requires a business to repay two years of tax benefits if it stops operating in a GJZ or ceases to be a qualified business (e.g., because it no longer meets the eligibility requirements). Similar repayment requirements apply to individuals who derive tax benefits (e.g., from renting property to a qualified business) from GJZ, but are not themselves a qualified business. Repayments are distributed to the funds (state or local) that would have received the proceeds of the taxes.

Procedures for calculating the repayments and the method of making the repayments are provided, as well as collection procedures.

The commissioner of revenue may waive repayment if the business ceased operating as a result of circumstances beyond its control such as a natural disaster or economic events.

26 **Breach of agreements by businesses continuing to operate in GJZ.** Provides sanctions for GJZ businesses that continue to operate in the zone, but do so in violation of the terms of their business subsidy agreements (e.g., if they have not created the required number of jobs or investment). These businesses are subject to the requirement to repay two years of tax benefits, unless they enter a new or an amended agreement with DEED.

These businesses lose at least one year of tax benefits – i.e., for the year in which they did not comply with the business subsidy agreement. They may lose additional years, because a proportionate reduction in the zone duration is required based on the size of their violation of the agreement. Once adjusted under this provision, the zone duration cannot be readjusted.

A business that violates the second business subsidy agreement cannot use this section to enter a new or amended agreement again, and is permanently barred from future GJZ benefits. It is also subject to repayment of two years of benefits.

These provisions parallel the similar provisions under the JOBZ program.

27 **Prohibition on amendments of business subsidy agreements.** Prohibits amendment of business subsidy agreements, except as provided in section 26.

28 **Certification of continued eligibility.** Requires a qualified business to annually certify to DOR that it complies with the eligibility requirements under GJZ for tax benefits. If a business fails to file the certification or materially misrepresents its compliance in the certification, the business is subject to the repayment provisions under section 25. In addition, the business (and all of its 20-percent or greater owners) is permanently barred from receiving GJZ benefits. The business must be given 30-day notice before the sanctions can be imposed. The certification is a public document. DOR must notify DEED of each business that it certifies as not in compliance.

29 **Audit authority.** Authorizes the State Auditor to annually audit GJZ and business subsidy agreements under GJZ. The auditor may request confidential tax information from DOR and wage information from DEED to conduct these audits.