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### Statement of Position Special Legislation to Extend the Duration of TIF Districts

Occasionally, circumstances arise that may cause development authorities to seek special legislation. “Special legislation” or a “special law” is a law which, on the date it goes into effect (the “effective date”), applies to a single local government unit or a group of such units, and not to the entire state. The special law must name the local unit of government to which it applies.<sup>1</sup>

Special legislation is sometimes used to extend the duration of an existing tax increment financing (TIF) district or to establish a new district with longer duration limits than is permitted by the TIF Act.<sup>2</sup> A longer duration limit means that tax increment revenues are collected over a longer period of time and that, as a result, more tax increment revenues are collected. Some reasons for seeking such special legislation include the discovery of hazardous substances that were not known at the time a district was established, extensive compression of commercial/industrial classification rates, the enactment of the 2001 Tax Reform Act after bonds were issued, extensive costs to remediate a polluted site, or development activity that cannot be completed all at once, but needs to be completed in stages. Longer duration limits can also help an authority who is unable to meet debt service payments.

The county, the school district and the city will all be affected by an extension of the duration of a TIF district. If special legislation is enacted, each will have to forego the receipt of property taxes for more years than is required in general law. The TIF Act, therefore, requires that all *affected* local government units approve the special law before it becomes effective.<sup>3</sup>

The requirement that all affected local units of government must approve special legislation comes from the Minnesota Constitution, which provides that special law becomes effective only after its approval by any other local unit of government affected by the law:

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<sup>1</sup> Minn. Const., art. XII, § 2; Minn. Stat. § 645.021, subd. 2.

<sup>2</sup> The TIF Act, at Minn. Stat. §§ 469.174 to 469.1779 (as amended).

<sup>3</sup> Minn. Stat. § 469.1782, subd. 2.

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This Statement of Position is not legal advice and is subject to revision.

The legislature may enact special laws relating to local government units, but a special law, unless otherwise provided by general law, shall become effective only after its approval by the affected unit [or units] expressed through the voters or the governing body and by such majority as the legislature may direct.

Formal approval by each affected local unit of government must be by resolution adopted by a majority vote of all the members.<sup>4</sup>

Special law generally has an effective date provision which includes the following two requirements:

EFFECTIVE DATE: This section is effective upon compliance 1) by the governing body of the city of \_\_\_\_\_ with the requirements of Minnesota Statutes, section 645.021, and 2) by the governing bodies of the county, city, and school district with the requirements of Minnesota Statutes, section 469.1782, subdivision 2.<sup>5</sup>

The distinction between the two requirements is that section 645.021 applies to the local government unit *named* in the special law, and section 469.1782, subdivision 2, applies to the local government units *affected* by the special law.

After the county, city, and school district have approved the special law, the chief clerical officer of the city files a certificate with the secretary of state. The certificate must state the essential facts necessary to valid approval. Resolutions adopted by a majority vote of all members of governing bodies are required. Copies of each of the resolutions of approval by the city, the school district, and the county should be attached.<sup>6</sup> The certificate of approval is available from the Office of the Secretary of State.

If the municipality fails to file the certificate of approval before the first day of the next regular session of the legislature, the extension of the duration, and only the extension of the duration, is deemed to be disapproved. If the law contains provisions in addition to an extension of the duration and if the municipality otherwise complies with section 645.021, the additional provisions take effect.<sup>7</sup>

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<sup>4</sup> Minn. Stat. § 645.021, subd. 2.

<sup>5</sup> This “effective date” language will be similar in all special legislation.

<sup>6</sup> Minn. Stat. § 645.021, subd. 3; Minn. Stat. § 469.1782, subd. 2 (b).

<sup>7</sup> Minn. Stat. § 469.1782, subd. 2 (b).