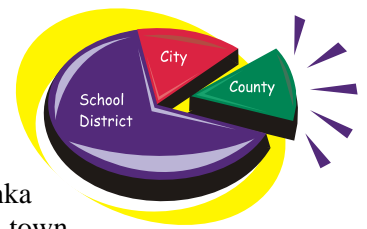


Abatement



In the 1997 legislative session, Representative Ron Abrams from Minnetonka authored legislation to allow individual political subdivisions (county, city, town, or school district) to return their proportional share of all or a portion of a building's property taxes (see H.F. 2163, Laws of Minnesota, Article 2, Sections 45 to 48, or Minnesota Statutes, Sections 469.1812 to 469.1815). Abatements were designed to give each jurisdiction a voice in economic and redevelopment efforts, limit the state's financial liability through the school finance system, and enable new business retention efforts.

Complications arose in the mechanics of abatements and, more importantly, from the reintroduction of levy limits for taxes payable in 1998 and 1999. The 1998 Legislature passed legislation to exempt these abatements from the levy limits and also allow bonds to be issued as a means to finance the development. The 1999 through 2005 Legislatures, in an effort to make abatement a more viable economic development tool, have further expanded the scope of abatement authority.

The nuts and bolts of the abatement program are as follows:

- The abatement is a tax rebate rather than an exemption from paying taxes.
- The taxpayer pays taxes on the abated property in the same manner it would if the taxes were not being abated. The county pays the abatement to the general fund of the political subdivision without identifying the amount of the abatement.
- The 1999 Legislature expanded the meaning of the term abatement to encompass agreements to defer property taxes without interest or penalties. The city, town, county or school district can levy taxes as usual, defer payments for up to ten years, impose a set repayment schedule, and abate the penalties and interest.
- Towns may take action on tax abatement at any meeting, not only at their annual meeting. The 1999 Legislature gave the town board the power to approve the abatement resolution at other times, but unfortunately, the new legislation did not change the definition of "governing body". The 2001 Legislature corrects the definition of governing body to authorize town boards (rather than the annual meeting) to approve abatement, and is retroactive to the date of the 1999 change (May 26, 1999).
- As of May 26, 1999, a school district may abate its entire tax capacity based levy (previously could only abate 60% to 75%). A school district may not abate market value based levies. School boards, also as of May 26, 1999, may now grant abatements for the entire term of the abatement (previously they could only approve the abatement one year at a time). School districts may levy an additional property tax to pay for their abatements. The school district will not lose net revenue by using the program.
- The 2005 Legislature extended the maximum term of the abatement to fifteen years if the city (or town), county, and school all participate. If one or more entities decline, the maximum term is 20 for all participating entities, not just the requesting unit of government, as further extended under legislation passed in 2005.
- The 2003 Legislature doubled the maximum that an entity can abate to the greater of \$200,000 per year or 10% of the entity's levy.
- Taxes payable from the market value of a new or existing building, and, as of May 26, 1999, the value of land and any fiscal disparities contributions (for metro and taconite credit areas only) may be abated. The maximum annual abatement equals the political subdivision's local tax rate multiplied by the net tax capacity of the parcel.



- Abatements are authorized to finance public infrastructure, whether or not the benefitted infrastructure is on or adjacent to the parcel for which the tax is abated. The owner of a parcel for which taxes are abated need not consent. Thus, a political subdivision may approve an abatement for certain parcels and use the retained taxes to finance public improvement projects.
- The notification requirements include a public hearing with a 10 to 30 day publication notice.
- The findings required by a council or board include general statements of tax base, preservation, employment, public facilities, blight, or access to services.
- G.O. Abatement Bonds can be issued without affecting net debt and can be issued without a referendum under certain conditions. Authorities may increase their abatement levies to make up for shortfalls resulting from class rate compression. Effective for bonds issued or sold after July 1, 2001, abatement bonds used for buildings primarily used to conduct the business of a unit of government must require approval by the voters in a referendum, under legislation passed in 2001.
- Abatement does not require a property owners consent.
- Abatements cannot be used in concert with tax increment financing, but can be utilized after a TIF district is decertified.
- Effective for abatement levies payable beginning in 2002, the 2001 Legislature authorizes political subdivisions to increase their abatement levies to make up for shortfalls from class rate compression.

Another issue which complicates the abatement program is the specific authority of a governmental body to pledge its abatements to the debt of another governmental entity, if the debt is not a G.O. Abatement Bond. Many attorneys differ on the interpretations of the pledges allowed and what exactly constitutes a G.O. Abatement Bond.

We recommend that abatement always be utilized in conjunction with a development agreement that clearly spells out the developer's responsibilities with respect to improvements and job and wage goals.

Abatement is a "business subsidy" and as such is subject to Minnesota Statutes, Sections 116J.993 through 116J.995.