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State of Minnesota

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HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 1947

- 03/04/2021 Authored by Olson, L.; Schultz; Frazier and Murphy  
The bill was read for the first time and referred to the Committee on State Government Finance and Elections
- 03/15/2021 Adoption of Report: Placed on the General Register as Amended  
Read for the Second Time
- 04/29/2021 Calendar for the Day  
Read for the Third Time  
Passed by the House and transmitted to the Senate

1.1 A bill for an act

1.2 relating to local government; modifying enacting language of Duluth Entertainment

1.3 and Convention Center; amending Laws 1963, chapter 305, sections 2, as amended;

1.4 3, as amended; 4, as amended; 5, as amended; 8, as amended; 9, as amended; 10,

1.5 as amended.

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

1.7 Section 1. Laws 1963, chapter 305, section 2, as amended by Laws 1998, chapter 404,

1.8 section 62, is amended to read:

1.9 Sec. 2.

1.10 The authority created under this act shall consist of 11 directors, seven appointed by the

1.11 city of Duluth and four appointed by the governor. The directors serve without compensation

1.12 but may be reimbursed for authorized out-of-pocket expenses incurred in the fulfillment of

1.13 their duties. The original term of three of the directors shall be for one year; the original

1.14 term of two of the directors shall be for two years; and the original term of two of the

1.15 directors shall be for three years, and until their respective successors are appointed and

1.16 qualified. Subsequent terms of directors appointed by the city shall be for three years. All

1.17 terms shall expire on June 30 of the appropriate year. Directors appointed by the governor

1.18 serve at the pleasure of the governor. Whenever a vacancy on such authority shall occur by

1.19 reason of resignation, death, removal from the city, or removal for failure or neglect to

1.20 perform duties of a director, such vacancy shall be filled for the unexpired term. All

1.21 appointments and removal of directors of the authority appointed by the city shall be made

1.22 by the mayor, with the approval of the city council, evidenced by resolution. Every appointee

1.23 who shall fail, within ten days after notification of his appointment, to file with the city

2.1 clerk ~~his~~ the appointee's oath or affirmation to perform faithfully, honestly, and impartially  
2.2 the duties of ~~his~~ the office, shall be deemed to have refused such appointment, and thereupon  
2.3 another person shall be appointed in the manner prescribed in this section.

2.4 Sec. 2. Laws 1963, chapter 305, section 3, as amended by Laws 1998, chapter 404, section  
2.5 63, is amended to read:

2.6 Sec. 3.

2.7 Subdivision 1. Within 30 days after the members of the authority shall have qualified  
2.8 for office, the authority shall meet and organize, and adopt and thereafter may amend such  
2.9 rules and regulations for the conduct of the authority as the authority shall deem to be in  
2.10 the public interest and most likely to advance, enhance, foster, and promote the use of  
2.11 regional assets, the entertainment and convention center and its facilities for activities,  
2.12 conventions, events, ~~and~~ athletic, and cultural productions. Such rules and regulations shall  
2.13 at all times be in harmony with this act.

2.14 Subd. 2. Such directors shall elect from among their number a ~~president~~ chair and a  
2.15 ~~vice-president~~ vice-chair, and shall also elect a treasurer or secretary ~~who may or may not~~  
2.16 ~~be a member of such authority, or both~~. No two of such offices may be held by one director.  
2.17 The officers shall have the duties and powers usually attendant upon such officers, and such  
2.18 other duties and powers not inconsistent herewith as may be provided by the authority.

2.19 Subd. 3. The authority shall select a specific site within the city of Duluth for location  
2.20 of a national class entertainment and convention center, and may spend money appropriated,  
2.21 or otherwise available to it for that purpose, to acquire property for the center and to plan,  
2.22 design, construct, equip, and furnish the center. The authority shall administer, promote,  
2.23 and operate the center as a state facility, but for which the state assumes no financial  
2.24 responsibility or liability beyond the amounts appropriated for the facility.

2.25 Sec. 3. Laws 1963, chapter 305, section 4, as amended by Laws 1998, chapter 404, section  
2.26 64, is amended to read:

2.27 Sec. 4.

2.28 Subdivision 1. The city treasurer of the city of Duluth shall be the ~~treasurer~~ fiscal agent  
2.29 of the authority. The ~~treasurer~~ fiscal agent shall receive and have the custody of all moneys  
2.30 of the authority from whatever source derived, and the same shall be deemed public funds.  
2.31 The ~~treasurer~~ city of Duluth shall disburse such funds only upon written orders drawn against

3.1 such funds, signed by the manager and approved by the ~~president~~ chair, or in ~~his~~ the chair's  
3.2 absence, the ~~vice-president~~ vice-chair of such authority; and each order shall state the name  
3.3 of the payee and the nature of the claim for which the same is issued. The ~~treasurer~~ fiscal  
3.4 agent shall keep an account of all monies coming into ~~his~~ the fiscal agent's hands, showing  
3.5 the source of all receipts and the nature, purpose, and authority of all disbursements, and at  
3.6 least four times each year, at times and in a form to be determined by the city council, the  
3.7 authority shall file with the city clerk a financial statement of the authority, showing all  
3.8 receipts and disbursements, the nature of the same, the moneys on hand, and the purposes  
3.9 for which the same are applicable, the credits and assets of the authority, and its outstanding  
3.10 liabilities.

3.11 Subd. 2. The authority has the exclusive power to receive, control, and order the  
3.12 expenditure of any and all moneys and funds pertaining to the center operations.

3.13 Subd. 3. There are hereby created in the treasury of the city of Duluth a special  
3.14 entertainment and convention center fund, hereinafter referred to as the special fund, and  
3.15 an entertainment and convention center operating fund, hereinafter referred to as the operating  
3.16 fund. The moneys in the special fund shall be used solely for the acquisition and preparation  
3.17 of a site, and for the planning, construction, and equipping of the center. The special fund  
3.18 shall consist of:

3.19 (1) All moneys derived from the sale of bonds by the city to provide funds for the  
3.20 acquisition and preparation of a site, and for the planning, construction, and equipping of  
3.21 the center.

3.22 (2) All moneys appropriated or made available to the city of Duluth for the acquisition  
3.23 and preparation of a site, and for the planning, construction, and equipping of the center.

3.24 (3) The proceeds of all financial aid or assistance by the city or state governments for  
3.25 the acquisition and preparation of a site, and for the planning, construction, and equipping  
3.26 of the center.

3.27 (4) All moneys received from the United States of America to aid in the acquisition and  
3.28 preparation of a site, and for the planning, construction, and equipping of the center.

3.29 (5) All moneys received as gifts or contributions to the acquisition and preparation of a  
3.30 site, and for the planning, construction, and equipping of the center.

3.31 The operating fund shall be used for maintenance, marketing and promotion, operation,  
3.32 or betterment of the center, and for expenses of the authority. The operating fund shall

4.1 consist of all moneys of the authority derived from any source other than moneys credited  
4.2 to the special fund as hereinabove provided.

4.3 Subd. 4. At least once in each year the city auditor shall make, or cause to be made, at  
4.4 the expense of the authority, a complete examination and audit of all books and accounts  
4.5 of the aforesaid authority; and for such purpose the city auditor shall have the authority and  
4.6 power to inspect and examine such books and accounts at any time during regular business  
4.7 hours and such intervals as ~~he may determine~~ determined by the city auditor. One copy of  
4.8 such yearly audit shall be filed by the city auditor with the city clerk as a public document.

4.9 Subd. 5. The authority shall annually submit to the governor and the legislature a report  
4.10 detailing its activities and finances for the previous year. The report shall also include a  
4.11 proposed budget for the succeeding two years, showing in reasonable detail estimated  
4.12 operating and nonoperating revenues from all sources, and estimated expenditures for  
4.13 operation, administration, ordinary repair, and debt service.

4.14 Subd. 6. The legislative auditor shall make an annual audit of the authority's books and  
4.15 accounts once each year or as often as the legislative auditor's funds and personnel permit.

4.16 Sec. 4. Laws 1963, chapter 305, section 5, as amended by Laws 1998, chapter 404, section  
4.17 65, is amended to read:

4.18 Sec. 5.

4.19 Subdivision 1. Wherever the word "center" is used in this act, it means the entertainment  
4.20 and convention center complex and its facilities of the city of Duluth, including the land  
4.21 upon which it stands and land appurtenant thereto.

4.22 Subd. 2. Notwithstanding anything to the contrary contained in any law, or in the charter  
4.23 of the city of Duluth, or in any ordinance thereof, passed by the city council, or approved  
4.24 by the electors of the city, there is hereby conferred upon such authority the power and duty  
4.25 to contract for and superintend the erection, construction, equipping and furnishing of the  
4.26 center, and to administer, promote, control, direct, manage, and operate the center as a  
4.27 municipal facility.

4.28 Sec. 5. Laws 1963, chapter 305, section 8, as amended by Laws 1998, chapter 404, section  
4.29 67, is amended to read:

4.30 Sec. 8.

4.31 The authority shall have the power:

5.1 To adopt and alter all bylaws and rules and regulations which it shall from time to time  
5.2 deem best for the conduct of the business of the authority, and for the use of the facilities  
5.3 of the authority, and for the purposes of carrying out the objects of this act; but such bylaws,  
5.4 rules, and regulations shall not be in conflict with the terms of this act.

5.5 To appoint and remove a manager and such other employees as the authority may deem  
5.6 necessary, who shall not be within the civil service classifications of the city, and to prescribe  
5.7 the duties and fix the compensation and other benefits of such manager and employees,  
5.8 without regard to any provision contained in the charter or any ordinance of the city relating  
5.9 to civil service, or to any provision contained in Minnesota Statutes 1961, Sections 197.45  
5.10 to 197.47, inclusive.

5.11 To procure and provide for a policy or policies of insurance for the defense and  
5.12 indemnification of the city of Duluth, its officers and employees, and directors, manager,  
5.13 and employees of the authority, against claims arising against them out of the performance  
5.14 of duty, whether such claims be groundless, or otherwise. Premiums for any policies of  
5.15 insurance required by this act shall be paid for out of the funds of the entertainment  
5.16 convention center authority.

5.17 To implement and carry out the provisions of section 7 of this act.

5.18 To utilize the services and facilities of the city so far as the same are offered by  
5.19 appropriate city officials and accepted by the authority, and to pay the city for all charges  
5.20 and costs for such services.

5.21 To operate and maintain and to lease from others all facilities necessary or convenient  
5.22 in connection with the center and to contract for the operation and maintenance of any parts  
5.23 thereof or for services to be performed; to lease the whole or parts thereof, and grant  
5.24 concessions, all on such terms and conditions as the authority may determine.

5.25 To authorize and direct the city ~~treasurer~~ fiscal agent to invest, in the manner provided  
5.26 by law, any funds held in reserve, or sinking funds, or any funds not required for immediate  
5.27 disbursement.

5.28 To fix, alter, charge, and collect rates, fees, and all other charges to be made for all  
5.29 services or facilities furnished by the authority for the use of the center facilities by any  
5.30 persons or public or private agencies utilizing such services or facilities.

5.31 To make and execute contracts, agreements, instruments, and other arrangements  
5.32 necessary or convenient to the exercise of its powers.

6.1 Sec. 6. Laws 1963, chapter 305, section 9, as amended by Laws 1998, chapter 404, section  
6.2 68, is amended to read:

6.3 Sec. 9.

6.4 The manager of the center shall be responsible for the custody and control of all moneys  
6.5 received and collected from the daily operations of the center until such moneys are delivered  
6.6 to the city ~~treasurer~~ fiscal agent and ~~he~~ the fiscal agent shall have obtained a receipt therefor,  
6.7 or until such moneys are deposited in a bank account under control of the city ~~treasurer~~  
6.8 fiscal agent.

6.9 The manager shall give bond in favor of the city of Duluth in a sum equal to twice the  
6.10 amount of money which will probably be in ~~his~~ the manager's hands at any time during any  
6.11 one year, that amount to be determined at least annually by the authority; such bond to be  
6.12 conditioned upon the faithful discharge of ~~his~~ the manager's official duties, and be approved  
6.13 as to form, correctness, and validity by the city attorney, and filed with the city auditor;  
6.14 such bond, however, shall not exceed \$300,000. Premiums for such bonds shall be paid out  
6.15 of funds of the authority.

6.16 Sec. 7. Laws 1963, chapter 305, section 10, as amended by Laws 1998, chapter 404,  
6.17 section 69, is amended to read:

6.18 Sec. 10.

6.19 The authority shall regulate the making of bids and the letting of contracts through  
6.20 procedure established by the authority, subject to the following conditions:

6.21 (a) In all cases of work to be done by contract or the purchase of property of any kind,  
6.22 or the rendering of any service to the authority other than professional services, competitive  
6.23 bids shall be secured before any purchase is made or any contract awarded where the amount  
6.24 involved exceeds the sum of ~~\$2,000~~ \$50,000.

6.25 (b) All bids shall be sealed when received, shall be opened in public at the hour stated  
6.26 in the notice; and all original bids, together with all documents pertaining to the award of  
6.27 the contract, shall be retained and made a part of the permanent file or record, and shall be  
6.28 open to public inspection.

6.29 (c) Purchases of ~~\$2,000~~ \$50,000 or less may, through procedure established by the  
6.30 authority, be delegated to the center manager. Contracts involving more than ~~\$2,000~~ \$50,000  
6.31 shall be awarded only after authorization by the authority.

7.1 (d) The authority may reject, or through procedure established by the authority, authorize  
7.2 the center manager to reject, any and all bids.

7.3 (e) Contract shall be let to the lowest responsible bidder, and purchases shall be made  
7.4 from the responsible bidder who offers to furnish the article desired for the lowest sum.

7.5 (f) In determining the lowest responsible bidder, in addition to price, the following may  
7.6 be considered:

7.7 (1) The ability, capacity, and skill of the bidder to perform the contract or provide the  
7.8 service required.

7.9 (2) Whether the bidder can perform the contract or provide the service promptly, or  
7.10 within the time specified, without delay or interference.

7.11 (3) The character, integrity, reputation, judgment, experience and efficiency of the bidder.

7.12 (4) The quality of performance of previous contracts or services.

7.13 (5) The sufficiency of the financial resources and ability of the bidder to perform the  
7.14 contract or provide the service.

7.15 (6) The quality, availability, and adaptability of the supplies or contractual service to  
7.16 the particular use required.

7.17 (7) The ability of the bidder to provide future maintenance and service for the use of the  
7.18 subject of the contract.

7.19 (8) The number and scope of conditions attached to the bid.

7.20 (g) Specifications shall not be so prepared as to exclude all but one type or kind, but  
7.21 shall include competitive supplies and equipment; provided, however, that unique or  
7.22 noncompetitive articles which are determined by the authority to be sufficiently superior  
7.23 for the service intended by the authority, may be purchased without regard to other bids.