

Subd. 5. JUDICIAL REVIEW. A party aggrieved by a final decision on a complaint filed under section 211B.32 is entitled to judicial review of the decision as provided in sections 14.63 to 14.69; however, proceedings on a complaint filed under section 211B.32 are not a contested case within the meaning of chapter 14 and are not otherwise governed by chapter 14.

Sec. 12. [211B.37] COSTS ASSESSED.

Except as otherwise provided in section 211B.36, subdivision 3, the chief administrative law judge shall assess the cost of considering complaints filed under section 211B.32 as provided in this section. Costs of complaints relating to a statewide ballot question or an election for a statewide or legislative office must be assessed against the appropriation from the general fund to the general account of the state elections campaign fund in section 10A.31, subdivision 4. Costs of complaints relating to any other ballot question or elective office must be assessed against the county or counties in which the election is held. Where the election is held in more than one county, the chief administrative law judge shall apportion the assessment among the counties in proportion to their respective populations within the election district to which the complaint relates according to the most recent decennial federal census.

Sec. 13. REPEALER.

Minnesota Statutes 2002, sections 211A.08, subdivisions 1 and 2; and 211B.16, subdivisions 1 and 2, are repealed.

Sec. 14. EFFECTIVE DATE.

This act is effective July 1, 2004, and applies to violations committed on or after that date.

Presented to the governor May 18, 2004

Signed by the governor May 28, 2004, 7:15 a.m.

CHAPTER 278—S.F.No. 1790

An act relating to public administration; increasing the flexibility of local government contracting; increasing the purchasing authority of city managers in plan B cities; increasing the competitive bidding threshold for small cities; authorizing the use of reverse auction and electronic bidding and selling; clarifying the division of proceeds of state bond financed property; permitting Ramsey County to collect and retain up to a \$1 criminal surcharge in order to fund Ramsey County's petty misdemeanor diversion program; amending Minnesota Statutes 2002, sections 16A.695, subdivision 3; 373.01, subdivision 1; 412.691; 429.041, subdivisions 1, 2; 469.015, subdivisions 1, 3; 471.345, subdivisions 3, 4, by adding subdivisions; Minnesota Statutes 2003 Supplement, section 357.021, subdivisions 6, 7.

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

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Section 1. Minnesota Statutes 2002, section 16A.695, subdivision 3, is amended to read:

Subd. 3. **SALE OF PROPERTY.** A public officer or agency shall not sell any state bond financed property unless the public officer or agency determines by official action that the property is no longer usable or needed by the public officer or agency to carry out the governmental program for which it was acquired or constructed, the sale is made as authorized by law, the sale is made for fair market value, and the sale is approved by the commissioner. If any state bonds issued to purchase or better the state bond financed property that is sold remain outstanding on the date of sale, the net proceeds of sale must be applied as follows:

(1) if the state bond financed property was acquired and bettered solely with state bond proceeds, the net proceeds of sale must be paid to the commissioner, deposited in the state bond fund, and used to pay or redeem or defease the outstanding state bonds in accordance with the commissioner's order authorizing their issuance, and the proceeds are appropriated for this purpose; or

(2) if the state bond financed property was acquired or bettered partly with state bond proceeds and partly with other money, the net proceeds of sale must be used: first, to pay to the state the amount of state bond proceeds used to acquire or better the property; second, to pay in full any outstanding public or private debt incurred to acquire or better the property; and third, any excess over the amount needed for those purposes must be divided in proportion to the shares contributed to the acquisition or betterment of the property and paid to the interested public and private entities, other than any private lender already paid in full, and the proceeds are appropriated for this purpose. In calculating the share contributed by each entity, the amount to be attributed to the owner of the property shall be the fair market value of the property that was bettered by state bond proceeds at the time the betterment began.

When all of the net proceeds of sale have been applied as provided in this subdivision, this section no longer applies to the property.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 2. Minnesota Statutes 2003 Supplement, section 357.021, subdivision 6, is amended to read:

Subd. 6. **SURCHARGES ON CRIMINAL AND TRAFFIC OFFENDERS.** (a) The court shall impose and the court administrator shall collect a \$60 surcharge on every person convicted of any felony, gross misdemeanor, misdemeanor, or petty misdemeanor offense, other than a violation of a law or ordinance relating to vehicle parking, for which there shall be a \$3 surcharge. In the second judicial district, the court shall impose, and the court administrator shall collect, an additional \$1 surcharge on every person convicted of any felony, gross misdemeanor, or petty misdemeanor offense, other than a violation of a law or ordinance relating to vehicle parking, if the Ramsey County Board of Commissioners authorizes the \$1 surcharge. The surcharge shall be imposed whether or not the person is sentenced to imprisonment or the sentence is stayed.

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(b) If the court fails to impose a surcharge as required by this subdivision, the court administrator shall show the imposition of the surcharge, collect the surcharge and correct the record.

(c) The court may not waive payment of the surcharge required under this subdivision. Upon a showing of indigency or undue hardship upon the convicted person or the convicted person's immediate family, the sentencing court may authorize payment of the surcharge in installments.

(d) The court administrator or other entity collecting a surcharge shall forward it to the commissioner of finance.

(e) If the convicted person is sentenced to imprisonment and has not paid the surcharge before the term of imprisonment begins, the chief executive officer of the correctional facility in which the convicted person is incarcerated shall collect the surcharge from any earnings the inmate accrues from work performed in the facility or while on conditional release. The chief executive officer shall forward the amount collected to the commissioner of finance.

EFFECTIVE DATE. This section is effective either the day after the governing body of Ramsey County authorizes imposition of the surcharge, or August 1, 2004, whichever is the later date, and applies to convictions on or after the effective date.

Sec. 3. Minnesota Statutes 2003 Supplement, section 357.021, subdivision 7, is amended to read:

Subd. 7. DISBURSEMENT OF SURCHARGES BY COMMISSIONER OF FINANCE. (a) Except as provided in paragraphs (b) ~~and~~ (c), and (d), the commissioner of finance shall disburse surcharges received under subdivision 6 and section 97A.065, subdivision 2, as follows:

(1) one percent shall be credited to the game and fish fund to provide peace officer training for employees of the Department of Natural Resources who are licensed under sections 626.84 to 626.863, and who possess peace officer authority for the purpose of enforcing game and fish laws;

(2) 39 percent shall be credited to the peace officers training account in the special revenue fund; and

(3) 60 percent shall be credited to the general fund.

(b) The commissioner of finance shall credit \$3 of each surcharge received under subdivision 6 and section 97A.065, subdivision 2, to the general fund.

(c) In addition to any amounts credited under paragraph (a), the commissioner of finance shall credit \$32 of each surcharge received under subdivision 6 and section 97A.065, subdivision 2, and the \$3 parking surcharge, to the general fund.

(d) If the Ramsey County Board of Commissioners authorizes imposition of the additional \$1 surcharge provided for in subdivision 6, paragraph (a), the court administrator in the second judicial district shall withhold \$1 from each surcharge collected under subdivision 6. The court administrator must use the withheld funds

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solely to fund the petty misdemeanor diversion program administered by the Ramsey County Violations Bureau. The court administrator must transfer any unencumbered portion of the funds received under this subdivision to the commissioner of finance for distribution according to paragraphs (a) to (c).

EFFECTIVE DATE. This section is effective either the day after the governing body of Ramsey County authorizes imposition of the surcharge, or August 1, 2004, whichever is the later date, and applies to convictions on or after the effective date.

Sec. 4. Minnesota Statutes 2002, section 373.01, subdivision 1, is amended to read:

Subdivision 1. **PUBLIC CORPORATION; LISTED POWERS.** (a) Each county is a body politic and corporate and may:

- (1) Sue and be sued.
- (2) Acquire and hold real and personal property for the use of the county, and lands sold for taxes as provided by law.
- (3) Purchase and hold for the benefit of the county real estate sold by virtue of judicial proceedings, to which the county is a party.
- (4) Sell, lease, and convey real or personal estate owned by the county, and give contracts or options to sell, lease, or convey it, and make orders respecting it as deemed conducive to the interests of the county's inhabitants.
- (5) Make all contracts and do all other acts in relation to the property and concerns of the county necessary to the exercise of its corporate powers.

(b) No sale, lease, or conveyance of real estate owned by the county, except the lease of a residence acquired for the furtherance of an approved capital improvement project, nor any contract or option for it, shall be valid, without first advertising for bids or proposals in the official newspaper of the county for three consecutive weeks and once in a newspaper of general circulation in the area where the property is located. The notice shall state the time and place of considering the proposals, contain a legal description of any real estate, and a brief description of any personal property. Leases that do not exceed \$15,000 for any one year may be negotiated and are not subject to the competitive bid procedures of this section. All proposals estimated to exceed \$15,000 in any one year shall be considered at the time set for the bid opening, and the one most favorable to the county accepted, but the county board may, in the interest of the county, reject any or all proposals.

(c) Sales of personal property the value of which is estimated to be \$15,000 or more shall be made only after advertising for bids or proposals as provided for real estate in the county's official newspaper, on the county's Web site, or in a recognized industry trade journal. At the same time it posts on its Web site or publishes in a trade journal, the county must publish in the official newspaper, either as part of the minutes of a regular meeting of the county board or in a separate notice, a summary of all requests for bids or proposals that the county advertises on its Web site or in a trade journal. After publication in the official newspaper, on the Web site, or in a trade

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journal, bids or proposals may be solicited and accepted by the electronic selling process authorized in section 471.345, subdivision 17. Sales of personal property the value of which is estimated to be less than \$15,000 may be made either on competitive bids or in the open market, in the discretion of the county board. "Web site" means a specific, addressable location provided on a server connected to the Internet and hosting World Wide Web pages and other files that are generally accessible on the Internet all or most of a day.

(d) Notwithstanding anything to the contrary herein, the county may, when acquiring real property for county highway right-of-way, exchange parcels of real property of substantially similar or equal value without advertising for bids. The estimated values for these parcels shall be determined by the county assessor.

(e) If real estate or personal property remains unsold after advertising for and consideration of bids or proposals the county may employ a broker to sell the property. The broker may sell the property for not less than 90 percent of its appraised market value as determined by the county. The broker's fee shall be set by agreement with the county but may not exceed ten percent of the sale price and must be paid from the proceeds of the sale.

(f) A county or its agent may rent a county-owned residence acquired for the furtherance of an approved capital improvement project subject to the conditions set by the county board and not subject to the conditions for lease otherwise provided by this clause paragraph (a), clause (4), and paragraphs (b), (c), (d), (e), and (g).

(g) In no case shall lands be disposed of without there being reserved to the county all iron ore and other valuable minerals in and upon the lands, with right to explore for, mine and remove the iron ore and other valuable minerals, nor shall the minerals and mineral rights be disposed of, either before or after disposition of the surface rights, otherwise than by mining lease, in similar general form to that provided by section 93.20 for mining leases affecting state lands. The lease shall be for a term not exceeding 50 years, and be issued on a royalty basis, the royalty to be not less than 25 cents per ton of 2,240 pounds, and fix a minimum amount of royalty payable during each year, whether mineral is removed or not. Prospecting options for mining leases may be granted for periods not exceeding one year. The options shall require, among other things, periodical showings to the county board of the results of exploration work done.

~~(5) Make all contracts and do all other acts in relation to the property and concerns of the county necessary to the exercise of its corporate powers.~~

Sec. 5. Minnesota Statutes 2002, section 412.691, is amended to read:

412.691 MANAGER IS PURCHASING AGENT; AUDIT AND APPROVAL.

The manager shall be the chief purchasing agent of the city. All purchases for the city and all contracts shall be made or let by the manager when the amount of the purchase or contract does not exceed ~~\$15,000~~ \$20,000 unless a lower limit is provided by the city council; but all claims resulting therefrom shall be audited and approved by the council as provided in section 412.271. All other purchases shall be made and all

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other contracts let by the council after the recommendation of the manager has first been obtained. All contracts, bonds and instruments of every kind to which the city is a party shall be signed by the mayor and the manager on behalf of the city and shall be executed in the name of the city.

Sec. 6. Minnesota Statutes 2002, section 429.041, subdivision 1, is amended to read:

Subdivision 1. **PLANS AND SPECIFICATIONS, ADVERTISEMENT FOR BIDS.** When the council determines to make any improvement, it shall let the contract for all or part of the work, or order all or part of the work done by day labor or otherwise as authorized by subdivision 2, no later than one year after the adoption of the resolution ordering such improvement, unless a different time limit is specifically stated in the resolution ordering the improvement. The council shall cause plans and specifications of the improvement to be made, or if previously made, to be modified, if necessary, and to be approved and filed with the clerk, and if the estimated cost exceeds \$35,000 for municipalities of less than 2,500 population, or \$50,000 for all others, shall advertise for bids for the improvement in the newspaper and such other papers and for such length of time as it may deem advisable. If the estimated cost exceeds \$100,000, publication shall be made no less than three weeks before the last day for submission of bids once in the newspaper and at least once in either a newspaper published in a city of the first class or a trade paper. To be eligible as such a trade paper, a publication shall have all the qualifications of a legal newspaper except that instead of the requirement that it shall contain general and local news, such trade paper shall contain building and construction news of interest to contractors in this state, among whom it shall have a general circulation. The advertisement shall specify the work to be done, shall state the time when the bids will be publicly opened for consideration by the council, which shall be not less than ten days after the first publication of the advertisement when the estimated cost is less than \$100,000 and not less than three weeks after such publication in other cases, and shall state that no bids will be considered unless sealed and filed with the clerk and accompanied by a cash deposit, cashier's check, bid bond, or certified check payable to the clerk, for such percentage of the amount of the bid as the council may specify. In providing for the advertisement for bids the council may direct that the bids shall be opened publicly by two or more designated officers or agents of the municipality and tabulated in advance of the meeting at which they are to be considered by the council. Nothing herein shall prevent the council from advertising separately for various portions of the work involved in an improvement, or from itself, supplying by such means as may be otherwise authorized by law, all or any part of the materials, supplies, or equipment to be used in the improvement or from combining two or more improvements in a single set of plans and specifications or a single contract.

Sec. 7. Minnesota Statutes 2002, section 429.041, subdivision 2, is amended to read:

Subd. 2. **CONTRACTS; DAY LABOR.** In contracting for an improvement, the council shall require the execution of one or more written contracts and bonds, conditioned as required by law. The council shall award the contract to the lowest

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responsible bidder or it may reject all bids. If any bidder to whom a contract is awarded fails to enter promptly into a written contract and to furnish the required bond, the defaulting bidder shall forfeit to the municipality the amount of the defaulter's cash deposit, cashier's check, bid bond, or certified check, and the council may thereupon award the contract to the next lowest responsible bidder. When it appears to the council that the cost of the entire work projected will be less than ~~\$35,000 for municipalities of less than 2,500 population, or \$50,000 for all others,~~ or whenever no bid is submitted after proper advertisement or the only bids submitted are higher than the engineer's estimate, the council may advertise for new bids or, without advertising for bids, directly purchase the materials for the work and do it by the employment of day labor or in any other manner the council considers proper. The council may have the work supervised by the city engineer or other qualified person but shall have the work supervised by a registered engineer if done by day labor and it appears to the council that the entire cost of all work and materials for the improvement will be more than \$25,000. In case of improper construction or unreasonable delay in the prosecution of the work by the contractor, the council may order and cause the suspension of the work at any time and relet the contract, or order a reconstruction of any portion of the work improperly done, and where the cost of completion or reconstruction necessary will be less than ~~\$35,000 for municipalities of less than 2,500 population, or \$50,000 for all others,~~ the council may do it by the employment of day labor.

Sec. 8. Minnesota Statutes 2002, section 469.015, subdivision 1, is amended to read:

Subdivision 1. **BIDS; NOTICE.** All construction work, and work of demolition or clearing, and every purchase of equipment, supplies, or materials, necessary in carrying out the purposes of sections 469.001 to 469.047, that involve expenditure of ~~\$35,000 for an authority whose area of operation is less than 2,500 population and \$50,000 for all other authorities~~ or more shall be awarded by contract. Before receiving bids the authority shall publish, once a week for two consecutive weeks in an official newspaper of general circulation in the community a notice that bids will be received for that construction work, or that purchase of equipment, supplies, or materials. The notice shall state the nature of the work and the terms and conditions upon which the contract is to be let, naming a time and place where bids will be received, opened and read publicly, which time shall be not less than seven days after the date of the last publication. After the bids have been received, opened and read publicly and recorded, the authority shall award the contract to the lowest responsible bidder, provided that the authority reserves the right to reject any or all bids. Each contract shall be executed in writing, and the person to whom the contract is awarded shall give sufficient bond to the authority for its faithful performance. If no satisfactory bid is received, the authority may readvertise. The authority may establish reasonable qualifications to determine the fitness and responsibility of bidders and to require bidders to meet the qualifications before bids are accepted.

Sec. 9. Minnesota Statutes 2002, section 469.015, subdivision 3, is amended to read:

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Subd. 3. **PERFORMANCE AND PAYMENT BONDS.** Performance and payment bonds shall be required from contractors for any works of construction as provided in and subject to all the provisions of sections 574.26 to 574.31 except for contracts entered into by an authority for an expenditure of less than \$35,000 for an authority whose area of operation is less than 2,500 population and \$50,000 for all others.

Sec. 10. Minnesota Statutes 2002, section 471.345, subdivision 3, is amended to read:

Subd. 3. **CONTRACTS OVER \$35,000 FOR MUNICIPALITIES OF LESS THAN 2,500 POPULATION; \$50,000 FOR ALL OTHERS.** If the amount of the contract is estimated to exceed \$35,000 for municipalities of less than 2,500 population, or \$50,000 for all others, sealed bids shall be solicited by public notice in the manner and subject to the requirements of the law governing contracts by the particular municipality or class thereof provided that with regard to repairs and maintenance of ditches, bids shall not be required if the estimated amount of the contract does not exceed the amount specified in section 103E.705, subdivisions 5, 6, and 7.

Sec. 11. Minnesota Statutes 2002, section 471.345, subdivision 4, is amended to read:

Subd. 4. **CONTRACTS FROM \$10,000 TO \$35,000 FOR MUNICIPALITIES OF LESS THAN 2,500 POPULATION; \$50,000 FOR ALL OTHERS.** If the amount of the contract is estimated to exceed \$10,000 but not to exceed \$35,000 for municipalities of less than 2,500 population, or \$50,000 for all others, the contract may be made either upon sealed bids or by direct negotiation, by obtaining two or more quotations for the purchase or sale when possible, and without advertising for bids or otherwise complying with the requirements of competitive bidding. All quotations obtained shall be kept on file for a period of at least one year after receipt thereof.

Sec. 12. Minnesota Statutes 2002, section 471.345, is amended by adding a subdivision to read:

Subd. 16. **REVERSE AUCTION.** Notwithstanding any other procedural requirements of this section, a municipality may contract to purchase supplies, materials, and equipment using an electronic purchasing process in which vendors compete to provide the supplies, materials, or equipment at the lowest selling price in an open and interactive environment. A municipality may not use this process to contract for services, as defined by section 16C.02, subdivision 17, or a service contract, as defined by section 16C.02, subdivision 16. Nothing in this subdivision must be construed to prohibit a municipality from adopting a resolution, rule, regulation, or ordinance relating to minimum labor standards under subdivision 7, or procurement from economically disadvantaged persons under subdivision 8.

Sec. 13. Minnesota Statutes 2002, section 471.345, is amended by adding a subdivision to read:

Subd. 17. **ELECTRONIC SALE OF SURPLUS SUPPLIES, MATERIALS, AND EQUIPMENT.** Notwithstanding any other procedural requirements of this

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section, a municipality may contract to sell supplies, materials, and equipment which is surplus, obsolete, or unused using an electronic selling process in which purchasers compete to purchase the surplus supplies, materials, or equipment at the highest purchase price in an open and interactive environment.

Sec. 14. Minnesota Statutes 2002, section 471.345, is amended by adding a subdivision to read:

Subd. 18. ELECTRONIC BIDDING. Notwithstanding any other procedural requirements of this section, vendors may submit bids, quotations, and proposals electronically in a form and manner required by the municipality. A municipality may allow bid, performance, or payment bonds, or other security, to be furnished electronically.

Sec. 15. **EFFECTIVE DATE.**

Sections 4 to 14 are effective the day following final enactment.

Presented to the governor May 18, 2004

Signed by the governor May 29, 2004, 8:25 a.m.

CHAPTER 279—H.F.No. 2175

An act relating to health; modifying requirements for various public health occupations; prescribing authority of speech-language pathology assistants; providing for renewal of certain licenses by members of the military; modifying requirements for physician assistants, acupuncture practitioners, nurses, licensed professional counselors, alcohol and drug counselors, dentists, dental hygienists, dental assistants, and podiatrists; modifying provisions for designating essential community providers; modifying certain immunization provisions; providing for performance reviews of certain executive directors; requiring a study; extending the Minnesota Emergency Health Powers Act; appropriating money; amending Minnesota Statutes 2002, sections 144E.01, subdivision 5; 147.01, subdivision 5; 147A.02; 147A.20; 147B.01, by adding a subdivision; 147B.06, subdivision 4; 148.191, subdivision 1; 148.211, subdivision 1; 148.284; 148.512, subdivisions 9, 19, by adding a subdivision; 148.6402, by adding a subdivision; 148.6403, subdivision 5; 148.6405; 148.6428; 148.6443, subdivisions 1, 5; 148B.19, subdivision 4; 150A.06, as amended; 150A.08, subdivision 1; 150A.09, subdivision 4; 153.01, subdivision 2; 153.16, subdivisions 1, 2; 153.19, subdivision 1; 153.24, subdivision 4; 153.25, subdivision 1; 192.502; 214.04, by adding a subdivision; Minnesota Statutes 2003 Supplement, sections 62Q.19, subdivision 2; 121A.15, subdivisions 3a, 12; 147A.09, subdivision 2; 148.212, subdivision 1; 148.511; 148.512, subdivisions 12, 13; 148.513, subdivisions 1, 2; 148.5161, subdivisions 1, 4, 6; 148.5175; 148.518; 148.5193, subdivisions 1, 6a; 148.5195, subdivision 3; 148.5196, subdivision 3; 148B.51; 148B.52; 148B.53, subdivisions 1, 3; 148B.54; 148B.55; 148B.59; 148C.04, subdivision 6; 148C.075, subdivision 2, by adding a subdivision; 148C.11, subdivisions 1, 6; 148C.12, subdivisions 2, 3; Laws 2002, chapter 402, section 21; Laws 2003, chapter 118, sections 28, 29; proposing coding for new law in Minnesota Statutes, chapters 148; 148B; 197; repealing Minnesota Statutes 2002, section 147B.02, subdivision 5; Minnesota Rules, parts 6900.0020, subparts 3, 3a, 9, 10; 6900.0400.

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