

CHAPTER 473

METROPOLITAN GOVERNMENT

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473.144 CERTIFICATES OF COMPLIANCE FOR CONTRACTS.

Neither the council nor an agency listed in section 473.143, subdivision 1, may accept any bid or proposal for a contract or execute a contract for goods or services in excess of \$50,000 with any business having more than 20 full-time employees in Minnesota on a single working day during the previous 12 months, unless the business has an affirmative action plan for the employment of minority persons, women, and the disabled that has been approved by the commissioner of human rights. Receipt of a certificate of compliance from the commissioner of human rights signifies that a business has an approved affirmative action plan. A certificate is valid for two years. Section 363.073 governs revocation of certificates. The rules adopted by the commissioner of human rights under section 363.074 apply to this section.

History: 1991 c 19 s 2

473.149 SOLID WASTE COMPREHENSIVE PLANNING.

[For text of subs 1 to 2d, see M.S.1990]

Subd. 2e. Solid waste disposal facilities development schedule. (a) After requesting and considering recommendations from the counties, cities, and towns, the council as part of its policy plan shall determine the number of sites and the capacity of sites needed within the metropolitan area for solid waste disposal facilities.

(b) The council shall adopt a schedule of disposal capacity to be developed within the metropolitan area in five-year increments for a period of at least 20 years from adoption of development schedule revisions. The schedule may not allow capacity in excess of the council's reduced estimate of the disposal capacity needed because of the council's land disposal abatement plan.

(c) The council shall make the implementation of elements of the schedule contingent on actions of each county in adopting and implementing abatement plans pursuant to section 473.803, subdivision 1b. The council may review the development schedule every year and revise the development schedule based on the progress made in the implementation of the council's abatement plans and achievement of metropolitan and local abatement objectives. The council shall review and revise, by resolution following public hearing, the development schedule based on significant changes in the landfill capacity of the metropolitan area. The schedule must include procedures and criteria for making revisions.

(d) The schedule must include standards and procedures for council certification of need pursuant to section 473.823. The schedule must also include a closure schedule and plans for postclosure management and disposition of facilities, including facilities in existence before the adoption of the development schedule.

[For text of subds 2f and 3, see M.S.1990]

Subd. 4. Advisory committee. The council shall establish an advisory committee to aid in the preparation of the policy plan, the performance of the council's responsibilities under subdivisions 2 to 2e, the review of county master plans and reports and applications for permits for waste facilities, under sections 473.151, 473.801 to 473.823, and 473.831, and other duties determined by the council. The committee shall consist of one-third citizen representatives, one-third representatives from metropolitan counties and municipalities, and one-third representatives from private waste management firms. A representative from the pollution control agency, one from the office of waste management established under section 115A.04, and one from the Minnesota health department shall serve as ex officio members of the committee.

[For text of subds 5 and 6, see M.S.1990]

History: 1991 c 337 s 63,64

NOTE: Subdivision 2b is repealed by Laws 1991, chapter 337, section 90, effective August 1, 1992. See Laws 1991, chapter 337, section 91.

NOTE: Subdivisions 2e and 4, as amended by Laws 1991, chapter 337, sections 63 and 64, are effective August 1, 1992. See Laws 1991, chapter 337, section 91.

473.156 METROPOLITAN WATER USE AND SUPPLY PLAN.

Subdivision 1. Plan components. The metropolitan council shall develop a short-term and long-term plan for existing and expected water use and supply in the metropolitan area. The plan shall be submitted to and reviewed by the commissioner of natural resources for consistency with the statewide drought plan under section 103G.293. At a minimum, the plans must:

- (1) update the data and information on water supply and use within the metropolitan area;
- (2) identify alternative courses of action, including water conservation initiatives and economic alternatives, in case of drought conditions;
- (3) recommend approaches to resolving problems that may develop because of water use and supply with consideration given to problems that occur outside of the metropolitan area, but which have an effect within the area; and
- (4) be consistent with the statewide drought plan under section 103G.293.

[For text of subd 2, see M.S.1990]

History: 1991 c 345 art 2 s 63

473.1631 LEGISLATIVE REVIEW.

All metropolitan agencies shall file their budgets with the secretary of the senate and the clerk of the house of representatives on January 15 of the first year of each biennium for review by the committees of each body that have jurisdiction over the metropolitan agencies.

History: 1991 c 183 s 2

473.23 PUBLIC FACILITIES REVIEW.

Subdivision 1. Inventory. The metropolitan council, in consultation with appropriate state agencies and local officials, must develop an inventory of all public buildings located within the metropolitan area. The inventory must include an assessment of the condition of each public building and document any under used space in the buildings.

Subd. 2. Shared facilities. The metropolitan council must review and comment on any joint facility proposed under section 121.155 and may submit comments to the commissioner of education on any school district facility that is proposed within the metropolitan area.

History: 1991 c 265 art 5 s 15

473.373 REGIONAL TRANSIT BOARD.

[For text of subs 1 and 1a, see M.S.1990]

Subd. 4a. Membership. (a) The board consists of 11 members with governmental or management experience. Appointments are subject to the advice and consent of the senate. Terms of members are four years commencing on the first Monday in January of the first year of the term.

(b) The council shall appoint eight members, one from each of the following agency districts:

- (1) district A, consisting of council districts 1 and 2;
- (2) district B, consisting of council districts 3 and 7;
- (3) district C, consisting of council districts 4 and 5;
- (4) district D, consisting of council districts 6 and 11;
- (5) district E, consisting of council districts 8 and 10;
- (6) district F, consisting of council districts 9 and 13;
- (7) district G, consisting of council districts 12 and 14; and
- (8) district H, consisting of council districts 15 and 16.

Six must be elected officials of statutory or home rule charter cities, towns, or counties.

(c) The governor shall appoint, in addition to the chair, two persons, one who is age 65 or older at the time of appointment, and one with a disability. These appointments must be made following the procedures of section 15.0597. In addition, at least 30 days before the expiration of a term or upon the occurrence of a vacancy in the office held by a senior citizen or a person with a disability, the governor shall request nominations from organizations of senior citizens and persons with disabilities. Each organization shall nominate at least two persons. The governor shall consider the nominations submitted.

(d) No more than three of the members appointed under paragraphs (b) and (c) may be residents of the same statutory or home rule city or town, and none may be a member of the joint light rail transit advisory committee established under section 473.3991.

[For text of subs 5 to 8, see M.S.1990]

History: 1991 c 298 art 7 s 6

473.375 POWERS OF BOARD.

[For text of subs 1 to 4, see M.S.1990]

Subd. 5. Insurance. The board may procure insurance in the amounts it considers necessary against the liability of the board or its officers and employees for personal injury or death and property damage or destruction, with the force and effect stated in chapter 466, and against risks of damage to or destruction of any of its facilities, equipment, or other property.

[For text of subs 6 to 18, see M.S.1990]

History: 1991 c 326 s 23

473.3994 LIGHT RAIL TRANSIT; DESIGN PLANS.

[For text of subs 2 to 8, see M.S.1990]

Subd. 9. Light rail transit operating costs. (a) Before submitting an application for federal assistance for light rail transit facilities in the metropolitan area, the applicant must provide to the metropolitan council estimates of the amount of operating subsidy

which will be required to operate light rail transit in the corridor to which the federal assistance would be applied. The information provided to the council must indicate the amount of operating subsidy estimated to be required in each of the first ten years of operation of the light rail transit facility.

(b) The council must review and evaluate the information provided under paragraph (a) with regard to the effect of operating the light rail transit facility on the currently available mechanisms for financing transit in the metropolitan area.

(c) The council must present its evaluation to the transportation and taxes committees of the house and senate, to the appropriations committee of the house and the finance committee of the senate, to the local government and metropolitan affairs committee of the house, and to the metropolitan affairs committee of the senate.

History: 1991 c 291 art 4 s 9

473.3997 FEDERAL FUNDING; LIGHT RAIL TRANSIT.

By July 1, 1992, the regional transit board, the regional rail authorities, and the commissioner of transportation shall jointly prepare any application for federal assistance for light rail transit facilities in the metropolitan area. The application must be reviewed and approved by the metropolitan council before it is submitted. The board, the rail authorities, and the commissioner must consult with the council in preparing the application. The application may provide for metropolitan regional railroad authorities to design or construct light rail transit facilities under contract with the commissioner.

History: 1991 c 298 art 7 s 7

NOTE: See also Laws 1991, chapter 291, article 4, section 20.

473.3998 LIGHT RAIL TRANSIT JOINT POWERS BOARD.

A light rail transit joint powers board shall be formed under section 471.59 to implement light rail transit final design and construction of the corridors funded solely with federal and county funds. The board shall consist of a voting member from the metropolitan transit commission, the department of transportation, the regional transit board, the metropolitan council, and the regional rail authorities of Hennepin, Ramsey, Anoka, Washington, Dakota, Scott, and Carver counties, plus an additional voting member from a county regional rail authority with a corridor in which final design has begun.

History: 1991 c 298 art 7 s 8

473.6021 PUBLIC NECESSITY AND PURPOSE FOR ISSUANCE OF BONDS.

In order to accomplish the public purposes set forth in section 473.602; to encourage and facilitate the retention and expansion of airline corporations' facilities, operations, and services in the metropolitan area and the state; to prevent the loss of jobs and encourage and promote the creation of additional jobs in the state in the airline industry and in other businesses in the state served or affected by the airline industry; to promote the continued growth, and reduce the potential for and effects of a decline of economic activity in the metropolitan area and the state; and to ensure the preservation, growth, and diversification of the tax base of the metropolitan area and the state; it is necessary and appropriate and in the public interest to authorize the commission to take the actions described in section 473.667, subdivision 11, and Laws 1991, chapter 350, article 2, section 3.

History: 1991 c 350 art 2 s 2

473.608 POWERS OF CORPORATION.

Subdivision 1. The corporation, subject to the conditions and limitations prescribed by law, shall possess all the powers as a body corporate necessary and convenient to accomplish the objects and perform the duties prescribed by sections 473.601 to 473.679, including but not limited to those hereinafter specified. These powers,

except as limited by section 473.622, may be exercised at any place within 35 miles of the city hall of either Minneapolis or St. Paul, and in the metropolitan area, and in the city of Duluth for the purpose of owning, leasing, constructing, equipping, operating, borrowing money from the state for, or otherwise arranging for financing the facility described in section 116R.02, subdivision 5.

A state loan to finance the facility described in section 116R.02, subdivision 5, must be made on terms and conditions as the commissioner of finance, the commissioner of trade and economic development, and the commission determine to be appropriate. The state loan is not subject to and may not be counted against any limitation on the principal amount of revenue bonds or general obligation revenue bonds that the commission may issue under sections 473.601 to 473.679.

[For text of subs 2 to 22, see M.S.1990]

History: 1991 c 350 art 1 s 23

473.616 COMPREHENSIVE AIRPORT PLANNING.

Subdivision 1. Wold-Chamberlain plan. (a) By January 1, 1992, the commission shall adopt a long-term comprehensive plan for the international airport at its existing location. The plan must describe:

- (1) aviation demand and air transportation needs;
- (2) airport capacity limits and potential;
- (3) facilities requirements;
- (4) a plan for physical development, including financial estimates and a tentative development schedule;
- (5) airport operational characteristics;
- (6) compatibility with metropolitan and local physical facility systems;
- (7) environmental effects;
- (8) safety; and
- (9) the effect on the neighboring communities.

The plan must satisfy the air transportation needs for a prospective 20-year period. At the same time, the commission shall adopt a concept plan for the airport, including an estimate of facilities requirements, to satisfy the air transportation needs for an additional ten-year period. The plans must be consistent with the development guide of the council. The plans must be updated at least every five years. The plans must be amended as necessary to reflect changes in trends and conditions, facilities requirements, and development plans and schedules. The plans are subject to sections 473.165 and 473.611.

(b) Until January 1, 1996, or until the commission has completed the activities required by subdivision 3 and section 473.618, whichever occurs first, the commission may construct a new runway or a new, substantially expanded, or relocated terminal facility if the commission determines that construction of the runway or facility is necessary and prudent, considering the economic, financial, environmental, and other costs and benefits of the new runway or facility, the current and long-term future need for major airport facilities, capacity constraints, and the time required to construct airport facilities. The commission shall make its determination by resolution, containing findings of fact and conclusions. Before making its determination, the commission shall hold a public hearing on the question. The hearing may be held separately or in conjunction with any other hearing required on the project, as the commission deems appropriate. The commission may plan, prepare designs and specifications, and conduct an environmental review of a facility before the public hearing.

[For text of subs 2 to 4, see M.S.1990]

History: 1991 c 21 s 1

473.667 GENERAL OBLIGATION REVENUE FINANCING.

[For text of subs 1 to 8, see M.S.1990]

Subd. 8a. Refunding bonds. The commission may issue general obligation revenue refunding bonds to refund bonds issued pursuant to this section in accordance with section 475.67, subdivisions 1 to 11.

[For text of subs 9 and 10, see M.S.1990]

Subd. 11. Additional bonds. (a) The commission may issue general obligation revenue bonds under this section for the purposes of:

(1) acquiring by purchase real and personal properties located within the metropolitan area that are related to airline operations to be leased to airline corporations, or to other corporations affiliated by common ownership with airline corporations, for use in connection with their airline operations, including real and personal properties for use as flight training facilities; and

(2) financing or refinancing real and personal properties owned by the commission which may include discharging a leasehold interest on the properties to be leased to airline corporations and used in connection with the operations of the airline corporations at airports under the commission's jurisdiction.

Prior to the issuance of the general obligation revenue bonds, the commission shall enter into a lease with the airline corporations, or with other corporations affiliated by common ownership with airline corporations, for the use of the acquired real and personal properties referenced in clause (1), and shall enter into a revenue agreement with the airline corporation for the use of the properties financed or refinanced referenced in clause (2). The commission shall seek to obtain the best available terms and security for the lease and agreement. The terms and security must be reasonably determined by the commission to be adequate and of the kind and degree which would be required by an investment banking or other financial institution. All such properties are airport facilities for purposes of complying with the provisions of subdivisions 3 and 5.

(b) In addition to the covenants and agreements otherwise required or negotiated by the commission, the leases and revenue agreements for the properties must contain covenants and agreements by the airline corporation, and if the user is not the airline corporation, also by the airline corporation, satisfactory to the commission providing for:

(1) the payment of rents in amounts and at times adequate to pay the principal and interest as due on the general obligation revenue bonds issued to acquire, finance, or refinance the properties and to pay the commission's costs and expenses of issuing the bonds and acquiring and owning the properties, and otherwise satisfying the requirements of section 469.155, subdivision 5;

(2) the adequate security for payment of rents so that the net unencumbered value of the leased property described in paragraph (a), clause (1), and other collateral pledged to the commission from time to time by the airline corporation, as independently appraised at the time of issuance and periodically to the satisfaction of the commission during the term of the general obligation revenue bonds, is a percentage of the principal amount of the outstanding general obligation revenue bonds under this subdivision as determined by the commission; provided that the percentage determined by the commission must not be less than 125 percent;

(3) the retention and location of operations and facilities, including headquarters, of the airline corporation in the metropolitan area and the state for the term of the lease and aircraft noise abatement; and

(4) early repayment, or the establishment of a defeasance account to provide for timely repayment, of the general obligation revenue bonds upon the occurrence of events and upon terms and conditions as are satisfactory to the commission, together with financial requirements and covenants satisfactory to the commission.

(c) The purchase price of the acquired properties described in paragraph (a), clause

(1), must be in an amount equivalent to a percentage of its then fair market value as determined by the commission; provided that the percentage shall not exceed 85 percent. The portion of the general obligation revenue bonds attributable to the financing or refinancing of the property described in paragraph (a), clause (2), must be in an amount equivalent to a percentage of its then fair market value as determined by the commission; provided that the percentage shall not exceed 85 percent. The principal amount of the general obligation revenue bonds issued under this subdivision is limited to \$270,000,000 in excess of the amount authorized by subdivision 2; provided that the sum of the original principal amounts of the general obligation revenue bonds issued under this subdivision, and the revenue bonds issued under section 473.6671, shall not exceed \$390,000,000. Before the commission may issue the general obligation revenue bonds described in this subdivision, the commission shall have received, in form and substance satisfactory to the commission, reports described in section 473.6671, subdivision 3, relating to the general obligation revenue bonds.

(d) In addition to other purposes authorized by law, the proceeds of the general obligation revenue bonds may be used to fund a debt service reserve account or other reserve account.

Subd. 12. Bonds for heavy maintenance facility. (a) The commission may issue general obligation revenue bonds under this section for the purpose of acquisition and betterment of a heavy maintenance facility for aircraft to be located at Minneapolis-St. Paul International Airport. The heavy maintenance facility must be owned by the commission and leased to and operated by airline corporations, for use by airline corporations in connection with their airline operations. The principal amount of the general obligation revenue bonds issued under this subdivision is limited to \$230,000,000 in excess of the amount authorized by subdivision 2.

(b) To reduce the risk that commission money, including a property tax levy, will be needed to pay debt service on the general obligation revenue bonds, the commission must require that the financing arrangements include a coverage test satisfactory to the commission, so that the sum of the value of the assets and other security pledged to the payment of the general obligation revenue bonds or the rent due under any lease of the facility and taken into account by the commission is no less than 125 percent of the difference between the outstanding general obligation revenue bonds and any cash collateral held in a debt service reserve fund and pledged to the payment of principal and interest for the general obligation revenue bonds and no other bonds. Assets and other security that may be taken into account include (1) the net unencumbered value of the facility and any collateral or third party guaranty, including a letter of credit, pledged or otherwise furnished by a user of the facility or by a benefited airline company as security for the payment of rent, (2) the general obligation revenue bond proceeds, including earnings thereon, and (3) prepayments of rent, after making such adjustments the commission determines to be appropriate to take into account any outstanding bonds secured by a lien on the facility or rent that is prior to the lien thereon that is securing the general obligation revenue bonds, but excluding any cash collateral deducted from the outstanding general obligation revenue bonds in applying the coverage test. The commission may adopt the method of valuing the assets and other security it determines to be appropriate, including valuation of the facility as its original cost less depreciation. Cash collateral means cash or securities issued or unconditionally guaranteed as to payment of principal and interest by the United States of America and maturing or callable at the option of the holder within two years.

(c) In addition to other purposes authorized by law, the proceeds of the general obligation revenue bonds may be used to fund a debt service reserve account or other reserve account.

(d) For purposes of this subdivision, the commission may exercise any powers vested in a redevelopment agency under sections 469.152 to 469.165. Any deed granted or received by the commission and any mortgage granted by the commission in connection with the issuance of the general obligation revenue bonds is exempt from deed tax and mortgage registry tax imposed under chapter 287. The lease must contain cove-

nants and agreements by the airline corporation and any successor in interest providing for: (1) the retention and location of existing employees, operations, and facilities, including headquarters, of the airline corporation in the state until the principal and interest on the last series of bonds are paid; and (2) aircraft noise abatement.

History: 1991 c 350 art 2 s 1,3,5

473.6671 REVENUE BONDS.

Subdivision 1. Authorization. (a) The commission may issue revenue bonds for the purpose of:

(1) acquiring by purchase real and personal properties located within the metropolitan area that are related to airline operations to be leased to airline corporations, or to other corporations affiliated by common ownership with airline corporations, for use in connection with their airline operations, including real and personal properties for use as flight training facilities; and

(2) financing or refinancing real and personal properties owned by the commission to be leased to airline corporations and used in connection with the operations of the airline corporations at airports under the commission's jurisdiction.

Prior to the issuance of the revenue bonds, the commission shall enter into a lease with the airline corporations, or with other corporations affiliated by common ownership with airline corporations, for the use of such acquired real and personal properties referenced in clause (1), and shall enter into a revenue agreement with the airline corporation for the use of the properties financed or refinanced referenced in clause (2). The commission shall seek to obtain the best available terms and security for the lease and agreement. The terms and security must be reasonably determined by the commission to be adequate and of the kind and degree which would be required by an investment banking or other financial institution.

(b) In addition to the covenants and agreements otherwise required or negotiated by the commission, the leases and revenue agreements for the properties must contain covenants and agreements by the airline corporation, and if the user is not the airline corporation, also by the airline corporation, satisfactory to the commission providing for:

(1) the payment of rents in amounts and at times adequate to pay the principal and interest as due on the revenue bonds issued to acquire, finance, or refinance the properties and to pay the commission's costs and expenses of issuing the bonds and acquiring and owning the properties, and otherwise satisfying the requirements of section 469.155, subdivision 5;

(2) the retention and location of operations and facilities, including headquarters, of the airline corporation in the metropolitan area and the state for the term of the lease;

(3) aircraft noise abatement; and

(4) early repayment, or the establishment of a defeasance account to provide for timely repayment, of the general obligation revenue bonds upon the occurrence of events and upon terms and conditions as are satisfactory to the commission, together with financial requirements and covenants satisfactory to the commission.

(c) The sum of the original principal amounts of the revenue bonds issued under this subdivision, and the general obligation revenue bonds issued under section 473.667, subdivision 11, shall not exceed \$390,000,000. Except as provided in this section, the revenue bonds must be issued in the manner and are subject to the requirements of chapter 475. Compliance with the requirements of section 475.60 is at the discretion of the commission. For purposes of this subdivision, the commission may exercise any powers vested in a redevelopment agency under sections 469.152 to 469.165.

Subd. 2. Security and source of payment. The revenue bonds described in subdivision 1 are payable solely from and secured by the revenues derived by the commission from the leases upon the properties described in subdivision 1, paragraph (a), clause (1), the revenue agreements upon the properties described in subdivision 1, paragraph

(a), clause (2), and other revenues as the commission may designate and pledge which are derived from the ownership and operation of its airports, air navigation facilities and other facilities; provided that the pledge and application of all revenues to the payment and security of the revenue bonds are subject and subordinate to the first and prior charge thereon for the payment and security of the commission's general obligation revenue bonds as provided in section 473.667. The revenue bonds shall not be payable from or charged upon any funds or assets of the commission other than the commission revenues expressly pledged to their payment. An owner of the revenue bonds may not compel any exercise of the taxing power of the commission, the state, or any other taxing jurisdiction. Each bond must state in substance the limited nature of the obligations. The revenue bonds may be further secured by an assignment of leases with respect to the properties acquired, financed, or refinanced by the revenue bonds, and (i) with respect to the properties described in subdivision 1, paragraph (a), clause (1), by a mortgage and security agreement upon the properties and by other collateral as is pledged to secure the obligations of the airline corporation or other lessee under the leases on the properties, and (ii) with respect to the properties described in subdivision 1, paragraph (a), clause (2), by other collateral as is pledged to secure the obligations of the airline corporation under the revenue agreements. Any deed granted or received by the commission and any mortgage granted by the commission in connection with the issuance of the revenue bonds is exempt from deed tax and mortgage registry tax imposed under chapter 287. In the resolution, trust indenture, or other instrument providing for the issuance of the revenue bonds, the commission may provide for or require the creation of accounts from sources specified by the commission for the payment and security of the revenue bonds, including a debt service reserve account, separate from the accounts maintained for payment of the general obligation revenue bonds. The sources specified by the commission may include a portion of the proceeds of revenue bonds or payment by the airline corporation. The leases described in subdivision 1, paragraph (a), clause (1), and the revenue agreements described in subdivision 1, paragraph (a), clause (2), must provide that if the commission determines to pledge any of its revenues to secure the revenue bonds, including revenues deposited into a debt service reserve account for the revenue bonds, the airline corporation concurrently shall pledge assets to the commission as security for repayment of the pledged revenues so that the net unencumbered values of the pledged assets, as independently appraised at the time of issuance and periodically to the satisfaction of the commission during the term of the revenue bonds, is a percentage of the amount of commission revenues so pledged as determined by the commission; provided that the percentage shall not be less than 125 percent.

Subd. 3. Due diligence conditions. (a) Before the commission may issue the revenue bonds described in subdivision 1, the commission must receive, in form and substance satisfactory to the commission:

(1) a report of audit of the commission's financial records for the fiscal year most recently ended or, if this is not yet available, a report for the preceding year, prepared by a nationally recognized firm of certified public accountants, showing that the net revenues received that year, computed as the gross receipts less any refunds of rates, fees, charges, and rentals for airport and air navigation facilities and service, and less the aggregate amount of current expenses, paid or accrued, of operation and maintenance of property and carrying on the commission's business and activities, equaled or exceeded the maximum amount of then outstanding bonds of the commission and interest thereon to become due in any future fiscal year;

(2) a written report, prepared by an independent, nationally recognized consultant on airport management and financing engaged by the commission, on the financial condition of the airline corporation, and any corporations selected by the commission and affiliated with the corporation by common ownership, projecting available revenues of the airline corporation at least sufficient during each year of the term of the proposed revenue bonds to pay when due all financial obligations of the airline corporation under the revenue agreements and leases described in subdivision 1 and stating the factors on which the projection is based; and

(3) a written report prepared by a nationally recognized consultant on airport management and financing, projecting available revenues of the commission at least sufficient during each year of the term of the proposed revenue bonds to pay all principal and interest when due on the revenue bonds, and stating the estimates of air traffic, rate increases, inflation, and other factors on which the projection is based.

(b) Business plans, financial statements, customer lists, and market and feasibility studies provided to the consultant or the commission by the airline company or a related company under paragraph (a), are nonpublic data as defined in section 13.02, subdivision 9.

History: 1991 c 350 art 2 s 4

473.680 TAX INCREMENT FINANCING DISTRICT FOR HEAVY MAINTENANCE FACILITY.

Subdivision 1. Authorization. The commission may create a tax increment financing district as provided in this subdivision on property located at the Minneapolis-St. Paul International Airport. Except as otherwise provided in this section, the provisions of sections 469.174 to 469.179 apply to the district. The district shall consist of parcels on which the heavy maintenance facility described in section 473.667, subdivision 12, is proposed to be located. The commission is the "authority" for purposes of sections 469.174 to 469.179.

Subd. 2. Characteristics of the district. (a) The district shall be an economic development district as defined in section 469.174, subdivision 12.

(b) Notwithstanding section 469.176, subdivision 4c, the revenue derived from tax increment from the district must be used only to pay debt service on general obligation revenue bonds issued by the commission under section 473.667, subdivision 12.

History: 1991 c 350 art 2 s 6

473.8011 METROPOLITAN AGENCY RECYCLING GOAL.

By December 31, 1993, the metropolitan council, each metropolitan agency as defined in section 473.121, and the metropolitan mosquito control district established in section 473.702 shall recycle at least 40 percent by weight of the solid waste generated by their offices or other operations. The council shall provide information and technical assistance to the agencies and the district to implement effective recycling programs.

By August 1 of each year, the council, each agency, and the district shall submit to the office of waste management a report for the previous fiscal year describing recycling rates, specified by the county in which the agency or operation is located, and progress toward meeting the recycling goal. The office shall incorporate the recycling rates reported in the respective county's recycling rates for the previous fiscal year.

If the goal is not met, the council, agency, or district must include in its 1994 report reasons for not meeting the goal and a plan for meeting it in the future.

History: 1991 c 337 s 65

473.803 METROPOLITAN COUNTY PLANNING.

[For text of subs 1 to 1e, see M.S.1990]

Subd. 2. Council review. The council shall review each master plan or revision thereof to determine whether it is consistent with the council's policy plan. If it is not consistent, the council shall disapprove and return the plan with its comments to the county for revision and resubmittal. The county shall have 90 days to revise and resubmit the plan for council approval. Any county solid waste plan or report approved by the council prior to April 9, 1976, shall remain in effect until a new master plan is submitted to and approved by the council in accordance with this section.

The council shall review the household hazardous waste management portion of each county's plan in cooperation with the agency.

[For text of subds 2a and 3, see M.S.1990]

Subd. 4. Advisory committee. By July 1, 1984, each county shall establish a solid waste management advisory committee to aid in the preparation of the county master plan, any revisions thereof, and such additional matters as the county deems appropriate. The committee must consist of citizen representatives, representatives from towns and cities within the county, and representatives from private waste management firms. The committee must include residents of towns or cities within the county containing solid waste disposal facilities. Members of the council's solid waste advisory committee who reside in the county are ex officio members of the county advisory committee. A representative of the metropolitan council is an ex officio member of the committee.

History: 1991 c 337 s 66,67

NOTE: Subdivision 1a is repealed by Laws 1991, chapter 337, section 90, effective August 1, 1992. See Laws 1991, chapter 337, section 91.

NOTE: Subdivision 4, as amended by Laws 1991, chapter 337, section 67, is effective August 1, 1992. See Laws 1991, chapter 337, section 91.

473.811 COUNTIES AND LOCAL UNITS OF GOVERNMENT; WASTE MANAGEMENT.

Subdivision 1. County acquisition of facilities. To accomplish the purpose specified in section 473.803, each metropolitan county may acquire by purchase, lease, gift or condemnation as provided by law, upon such terms and conditions as it shall determine, including contracts for deed and conditional sales contracts, solid waste facilities or properties or easements for solid waste facilities which are in accordance with rules adopted by the agency, the policy plan adopted by the council and the county master plan as approved by the council, and may improve or construct improvements on any property or facility so acquired. No metropolitan city, county or town shall own or operate a hazardous waste facility, except a facility to manage household hazardous waste. Each metropolitan county is authorized to levy a tax in anticipation of need for expenditure for the acquisition and betterment of solid waste facilities. If a tax is levied in anticipation of need, the purpose must be specified in a resolution of the county directing that the levy and the proceeds of the tax may be used only for that purpose. Until so used, the proceeds shall be retained in a separate fund or invested in the same manner as surplus in a sinking fund may be invested under section 475.66. The right of condemnation shall be exercised in accordance with chapter 117.

For the purposes of this section "solid waste facility" includes a facility to manage household hazardous waste.

Subd. 1a. Right of access. Whenever the county deems it necessary to the evaluation of a waste facility for enforcement purposes or for the accomplishment of any purpose under sections 473.149, 473.153, and 473.801 to 473.834, the county, or any employee or agent thereof when authorized by it, may enter upon any property, public or private, for the purpose of obtaining information or conducting surveys or investigations, provided that the entrance and activity is undertaken after reasonable notice and during normal business hours and provided that compensation is made for any damage to the property caused by the entrance and activity.

Subd. 2. County financing of facilities. Each metropolitan county may by resolution authorize the issuance of bonds to provide funds for the acquisition or betterment of solid waste facilities, closure, postclosure, and contingency costs, related transmission facilities, or property or property rights for the facilities, for responses, as defined in section 115B.02, to releases from closed solid waste facilities, or for refunding any outstanding bonds issued for any such purpose. The proceeds of bonds issued under this section for closure, postclosure, and contingency costs and noncapital responses to releases may be used only for solid waste facilities in existence on May 15, 1989. The county may pledge to the payment of the bonds and the interest thereon, its full faith, credit, and taxing powers, or the proceeds of any designated tax levies, or the gross or net revenues or charges to be derived from any facility operated by or for the county,

or any combination thereof. Taxes levied for the payment of the bonds and interest shall not reduce the amounts of other taxes which the county is authorized by law to levy. The proceeds of the bonds may be used in part to establish a reserve as further security for the payment of the principal and interest of the bonds when due. Bonds issued pursuant to this section may be sold at public or private sale upon such conditions as the county board shall determine. No election shall be required to authorize the issuance of the bonds. Except as otherwise provided, the bonds shall be issued and sold in accordance with the provisions of chapter 475.

[For text of subd 2a, see M.S.1990]

Subd. 3. County operation of facilities. Each metropolitan county may operate and maintain solid waste facilities, and for this purpose may employ all necessary personnel, may adopt regulations governing operation, and may establish and collect reasonable, nondiscriminatory rates and charges, except as authorized under section 115A.919, for the use of the facilities by any local government unit or person, estimated to be sufficient, with any other moneys appropriated for the purpose, to pay all costs of acquisition, operation and maintenance. Each metropolitan county may use itself or sell all or any part of materials or energy recovered from solid waste to private interests or public agencies for consumption or reuse by them. Section 471.345 and Laws 1951, chapter 556, as amended shall not apply to the sale of the materials or energy.

[For text of subds 3a and 4, see M.S.1990]

Subd. 4a. Ordinances; general conditions; restrictions; application. Ordinances of counties and local government units related to or affecting waste management shall embody plans, policies, rules, standards and requirements adopted by any state agency authorized to manage or plan for or regulate the management of waste and the waste management plans adopted by the council and shall be consistent with county master plans approved by the council. Except as provided in this subdivision, a county may establish and operate or contract for the establishment or operation of a solid waste disposal facility without complying with local ordinances if the council certifies need under section 473.823, subdivision 6. With the approval of the council, local government units may impose and enforce reasonable conditions respecting the construction, operation, inspection, monitoring, and maintenance of the disposal facilities. No local government unit shall prevent the establishment or operation of any solid waste facility in accordance with the council's decision under section 473.823, subdivision 5, except that, with the approval of the council, the local government unit may impose reasonable conditions respecting the construction, inspection, monitoring, and maintenance of a facility.

[For text of subd 4b, see M.S.1990]

Subd. 5. Ordinances; solid waste collection and transportation. Each metropolitan county may adopt ordinances governing the collection of solid waste. A county may adopt, but may not be required to adopt, an ordinance that requires the separation from mixed municipal waste, by generators before collection, of materials that can readily be separated for use or reuse as substitutes for raw materials or for transformation into a usable soil amendment. Each local unit of government within the metropolitan area shall adopt an ordinance governing the collection of solid waste within its boundaries. If the county within which it is located has adopted a collection ordinance, the local unit shall adopt either the county ordinance by reference or a more strict ordinance. If the county within which it is located has adopted a separation ordinance, the ordinance applies in all local units within the county that have failed to meet the local abatement performance standards, as stated in the most recent annual county report. Ordinances of counties and local government units may establish reasonable conditions respecting but shall not prevent the transportation of solid waste by a licensed collector through and between counties and local units, except as required for the enforcement of any designation of a facility by a county under chapter 115A. A licensed collector

or a metropolitan county or local government unit may request review by the council of an ordinance adopted under this subdivision. The council shall approve or disapprove the ordinance within 60 days of the submission of a request for review. The ordinance shall remain in effect unless it is disapproved. Ordinances of counties and local units of government shall provide for the enforcement of any designation of facilities by the counties under chapter 115A. Nothing in this subdivision shall be construed to limit the authority of the local government unit to regulate and license collectors of solid waste or to require review or approval by the council for ordinances regulating collection.

[For text of subds 5a to 5c, see M.S.1990]

Subd. 6. Grants and loans to counties. Each metropolitan county may accept gifts, may apply for and accept grants or loans of money or other property from the United States, the state, the metropolitan council, any local government unit, or any person, to accomplish the purposes specified in sections 473.149, 473.151, 473.801 to 473.823, 473.831, and 473.834, may enter into any agreement required in connection therewith, and may hold, use, and dispose of the money or property in accordance with the terms of the gift, grant, loan or agreement relating thereto.

Subd. 7. Joint action. Any local governmental unit or metropolitan agency may act together with any county, city, or town within or without the metropolitan area, or with the pollution control agency or the office of waste management under the provisions of section 471.59 or any other appropriate law providing for joint or cooperative action between government units, to accomplish any purpose specified in sections 473.149, 473.151, 473.801 to 473.823, 473.831, 473.834, 116.05 and 115A.06.

Any agreement regarding data processing services relating to the generation, management, identification, labeling, classification, storage, collection, treatment, transportation, processing or disposal of waste and entered into pursuant to section 471.59, or other law authorizing joint or cooperative action may provide that any party to the agreement may agree to defend, indemnify and hold harmless any other party to the agreement providing the services, including its employees, officers or volunteers, against any judgments, expenses, reasonable attorney's fees and amounts paid in settlement actually and reasonably incurred in connection with any third party claim or demand arising out of an alleged act or omission by a party to the agreement, its employees, officers or volunteers occurring in connection with any exchange, retention, storage or processing of data, information or records required by the agreement. Any liability incurred by a party to an agreement under this subdivision shall be subject to the limitations set forth in section 3.736 or 466.04.

Subd. 8. County sale or lease. Each metropolitan county may sell or lease any facilities or property or property rights previously used or acquired to accomplish the purposes specified by sections 473.149, 473.151, 473.801 to 473.823, 473.831, and 473.834. Such property may be sold in the manner provided by section 469.065, or may be sold in the manner and on the terms and conditions determined by the county board. Each metropolitan county may convey to or permit the use of any such property by a local government unit, with or without compensation, without submitting the matter to the voters of the county. No real property or property rights acquired pursuant to this section, may be disposed of in any manner unless and until the county shall have submitted to the agency and the metropolitan council for review and comment the terms on and the use for which the property will be disposed of. The agency and the council shall review and comment on the proposed disposition within 60 days after each has received the data relating thereto from the county.

Subd. 9. Solid and hazardous waste fund. All money received by any metropolitan county from any source specified in sections 473.149, 473.151, 473.801 to 473.823, 473.831, and 473.834 shall be paid into the county treasury, placed in a special fund designated as the county solid and hazardous waste fund, and used only for the purposes authorized in those sections, as appropriated by the county board, subject to any lawful restrictions, conditions, or pledges applicable thereto.

[For text of subd 10, see M.S.1990]

History: 1991 c 337 s 68-76; 1991 c 342 s 15

NOTE: The amendments to subdivisions 1a, 4a, 6, 7, 8, and 9, by Laws 1991, chapter 337, sections 69, 71, 73, 74, 75, and 76, are effective August 1, 1992. See Laws 1991, chapter 337, section 91.

473.823 RULES AND PERMITS.

[For text of subd 3, see M.S.1990]

Subd. 5. Review of waste processing facilities. (a) A metropolitan county may establish a waste processing facility within the county without complying with local ordinances, if the action is approved by the council in accordance with the review process established by this subdivision. A county requesting review by the council shall show that:

(1) the required permits for the proposed facility have been or will be issued by the agency;

(2) the facility is consistent with the council's policy plan and the approved county master plan; and

(3) a local government unit has refused to approve the establishment or operation of the facility, has failed to deny or approve establishment or operation of the facility within the time period required in section 115A.31, or has approved the application or request with conditions that are unreasonable or impossible for the county to meet.

(b) The council shall meet to commence the review within 90 days of the submission of a request determined by the council to satisfy the requirements for review under this subdivision. At the meeting commencing the review the chair shall recommend and the council establish a scope and procedure, including criteria, for its review and final decision on the proposed facility. The procedure shall require the council to make a final decision on the proposed facility within 120 days following the commencement of review. For facilities other than waste incineration and mixed municipal solid waste composting facilities, the council shall meet to commence the review within 45 days of submission of the request and shall make a final decision within 75 days following commencement of review.

(c) The council shall conduct at least one public hearing in the city or town within which the proposed facility would be located. Notice of the hearing shall be published in a newspaper or newspapers of general circulation in the area for two successive weeks ending at least 15 days before the date of the hearing. The notice shall describe the proposed facility, its location, the proposed permits, and the council's scope, procedure, and criteria for review. The notice shall identify a location or locations within the local government unit and county where the permit applications and the council's scope, procedure, and criteria for review are available for review and where copies may be obtained.

(d) In its review and final decision on the proposed facility, the council shall consider at least the following matters:

(1) the risk and effect of the proposed facility on local residents, units of government, and the local public health, safety, and welfare, and the degree to which the risk or effect may be alleviated;

(2) the consistency of the proposed facility with, and its effect on, existing and planned local land use and development; local laws, ordinances, and permits; and local public facilities and services;

(3) the adverse effects of the facility on agriculture and natural resources and opportunities to mitigate or eliminate such adverse effects by additional stipulations, conditions, and requirements respecting the design and operation of the proposed facility at the proposed site;

(4) the need for the proposed facility and the availability of alternative sites;

(5) the consistency of the proposed facility with the county master plan adopted

pursuant to section 473.803 and the council's policy plan adopted pursuant to section 473.149; and

(6) transportation facilities and distance to points of waste generation.

(e) In its final decision in the review, the council may either approve or disapprove the proposed facility at the proposed site. The council's approval shall embody all terms, conditions, and requirements of the permitting state agencies, provided that the council may require more stringent permit terms, conditions, and requirements respecting the design, construction, operation, inspection, monitoring, and maintenance of the proposed facility at the proposed site.

Subd. 6. **Council; certification of need.** No new mixed municipal solid waste disposal facility or capacity shall be permitted in the metropolitan area without a certificate of need issued by the council indicating the council's determination that the additional disposal capacity planned for the facility is needed in the metropolitan area. The council shall amend its policy plan, adopted pursuant to section 473.149, to include standards and procedures for certifying need that conform to the certification standards stated in this subdivision. The standards and procedures shall be based on the council's disposal abatement plan adopted pursuant to section 473.149, subdivision 2d, the council's solid waste disposal facilities development schedule adopted under section 473.149, subdivision 2e, and the provisions of any master plans of counties that have been approved by the council under section 473.803, subdivision 2, and that are consistent with the council's abatement plan and development schedule. The council shall certify need only to the extent that there are no feasible and prudent alternatives to the disposal facility, including waste reduction, source separation and resource recovery which would minimize adverse impact upon natural resources. Alternatives that are speculative or conjectural shall not be deemed to be feasible and prudent. Economic considerations alone shall not justify the certification of need or the rejection of alternatives.

History: 1991 c 337 s 77,78

NOTE: The amendment to subdivision 6 by Laws 1991, chapter 337, section 78, is effective August 1, 1992. See Laws 1991, chapter 337, section 91.

473.843 METROPOLITAN SOLID WASTE LANDFILL FEE.

[For text of subs 1 and 2, see M.S.1990]

Subd. 3. **Payment of fee.** On or before the 20th day of each month each operator shall pay the fee due under this section for the previous month, using a form provided by the commissioner of revenue.

An operator having a fee of \$240,000 or more during a fiscal year ending June 30 must pay all fees in the subsequent calendar year by means of a funds transfer as defined in section 336.4A-104, paragraph (a). The funds transfer payment date, as defined in section 336.4A-401, must be on or before the date the fee is due. If the date the fee is due is not a funds transfer business day, as defined in section 336.4A-105, paragraph (a), clause (4), the payment date must be on or before the funds transfer business day next following the date the fee is due.

[For text of subs 4 to 6, see M.S.1990]

History: 1991 c 291 art 17 s 12

473.844 METROPOLITAN LANDFILL ABATEMENT FUND.

Subdivision 1. **Establishment; purposes.** The metropolitan landfill abatement account is in the environmental fund in order to reduce to the greatest extent feasible and prudent the need for and practice of land disposal of mixed municipal solid waste in the metropolitan area. The account consists of revenue deposited in the account under section 473.843, subdivision 2, clause (1), and interest earned on investment of money in the account. All repayments to loans made under this section must be cred-

ited to the account. The money in the account may be spent only for purposes of metropolitan landfill abatement as provided in subdivision 1a and only upon appropriation by the legislature.

[For text of subd 1a, see M.S.1990]

Subd. 3. [Repealed, 1991 c 337 s 90]

[For text of subd 4, see M.S.1990]

History: 1991 c 199 art 1 s 76

473.845 METROPOLITAN LANDFILL CONTINGENCY ACTION FUND.

Subdivision 1. **Establishment.** The metropolitan landfill contingency action trust fund is an expendable trust fund in the state treasury. The fund consists of revenue deposited in the fund under section 473.843, subdivision 2, clause (2); amounts recovered under subdivision 7; and interest earned on investment of money in the fund.

[For text of subd 2, see M.S.1990]

Subd. 3. **Expenditures from the fund.** Money in the fund may only be appropriated to the agency for expenditure for:

(1) reasonable and necessary expenses for closure and postclosure care of a mixed municipal solid waste disposal facility in the metropolitan area for a 20-year period after closure, if the agency determines that the operator or owner will not take the necessary actions requested by the agency for closure and postclosure in the manner and within the time requested; and

(2) reasonable and necessary response and postclosure costs at a mixed municipal solid waste disposal facility in the metropolitan area that has been closed for 20 years in compliance with the closure and postclosure rules of the agency.

Subd. 4. **Expenditure notification.** The commissioner shall notify the chair and the director of the legislative commission on waste management before making expenditures from the fund.

[For text of subds 5 to 8, see M.S.1990]

History: 1991 c 199 art 1 s 77; 1991 c 337 s 79,80

NOTE: The amendments to subdivision 3, as found in Laws 1991, chapter 337, section 79, are effective August 1, 1992. See Laws 1991, chapter 337, section 91.

NOTE: Subdivision 3 was also amended by Laws 1991, chapter 182, section 1, to read as follows:

"Subd. 3. **EXPENDITURES FROM THE FUND.** Money in the fund may only be appropriated to the agency for expenditure for:

(1) reasonable and necessary expenses for closure and postclosure care of a mixed municipal solid waste disposal facility in the metropolitan area for a 20-year period after closure, if the agency determines that the operator or owner will not take the necessary actions requested by the agency for closure and postclosure in the manner and within the time requested;

(2) reasonable and necessary response and postclosure costs at a mixed municipal solid waste disposal facility in the metropolitan area that has been closed for 20 years in compliance with the closure and postclosure rules of the agency;

(3) reasonable and necessary response costs resulting from county actions required under section 473.833, subdivision 2a, when those actions are done under the supervision of the agency; or

(4) reimbursement to a local government unit for costs incurred over \$400,000 under a work plan approved by the commissioner of the agency to remediate methane at a closed disposal facility owned by the local government unit."

473.848 RESTRICTION ON DISPOSAL.

[For text of subd 1, see M.S.1990]

Subd. 2. **County certification; council approval.** (a) Each county shall submit a semi-annual certification report to the council detailing:

(1) the quantity of waste generated in the county that was not processed prior to transfer to a disposal facility during the six months preceding the report;

(2) the reasons the waste was not processed;

(3) a strategy for development of techniques to ensure processing of waste including a specific timeline for implementation of those techniques; and

(4) any progress made by the county in reducing the amount of unprocessed waste.

(b) The council shall approve a county's report if it determines that the county is reducing and will continue to reduce the amount of unprocessed waste, based on the report and the county's progress in development and implementation of techniques to reduce the amount of unprocessed waste transferred to disposal facilities. If the council does not approve a county's report, it shall negotiate with the county to develop and implement specific techniques to reduce unprocessed waste. If the council does not approve three or more consecutive reports from any one county, the council shall develop specific reduction techniques that are designed for the particular needs of the county. The county shall implement those techniques by specific dates to be determined by the council.

[For text of subs 3 and 4, see M.S.1990]

Subd. 5. Definition. For the purpose of this section, waste is "unprocessed" if it has not, after collection and before disposal, undergone at least one process, as defined in section 115A.03, subdivision 25, excluding storage, exchange, and transfer of the waste.

History: 1991 c 337 s 81,82

473.849 PROHIBITION; SOLID WASTE DISPOSAL.

No person may place processed or unprocessed mixed municipal solid waste that is generated in the metropolitan area in a disposal facility that does not comply with the minimum requirements for design, construction, and operation of a new mixed municipal solid waste disposal facility under Minnesota Rules in effect on January 1, 1991. Each metropolitan county shall, and each county in which is located a disposal facility may, enforce this prohibition and may impose penalties and recover attorney fees and court costs to the same extent as for enforcement of a designation ordinance under section 115A.86, subdivision 6. The commissioner of the pollution control agency may enforce this section under section 115.071 or 116.072.

History: 1991 c 337 s 83

NOTE: This section as added by Laws 1991, chapter 337, section 83, is effective January 1, 1995, for all disposal facilities regardless of location. See Laws 1991, chapter 337, section 91.