

CHAPTER 471

MUNICIPAL RIGHTS, POWERS, DUTIES

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471.16 MAY ACT INDEPENDENTLY OR COOPERATIVELY.

Subdivision 1. Any city, however organized, or any town, county, school district, or any board thereof, or any incorporated post of the American Legion or any other incorporated veterans' organization, may operate such a program independently, or they may cooperate among themselves or with any nonprofit organization in its conduct and in any manner in which they may mutually agree; or they may delegate the operation of the program to a recreation board created by one or more of them, and appropriate money voted for this purpose to such board which may in turn support or cooperate with a nonprofit organization.

[For text of subd 2, see M.S.1994]

History: 1995 c 256 s 16

471.191 ACQUISITION OF FACILITIES.

Subdivision 1. Any city operating a program of public recreation and playgrounds pursuant to sections 471.15 to 471.19 may acquire or lease, equip, and maintain land, buildings, and other recreational facilities, including, but without limitation, outdoor or indoor swimming pools, skating rinks and arenas, athletic fields, golf courses, marinas, concert halls, museums, and facilities for other kinds of athletic or cultural participation, contests, and exhibitions, together with related automobile parking facilities as defined in section 459.14, and may expend funds for the operation of such program and borrow and expend funds for capital costs thereof pursuant to the provisions of this section. A school district operating a program of public recreation and playgrounds has the rights provided in this section. Any facilities to be operated by a nonprofit corporation, as contemplated in section 471.16, may be leased to the corporation upon such rentals and for such term, not exceeding 30 years, and subject to such other provisions as may be agreed; including but not limited to provisions (a) permitting the lessee, subject to whatever conditions are stated, to provide for the construction and equipment of the facilities by any means available to it and in the manner determined by it, without advertisement for bids as required for other municipal facilities, and (b) granting the lessee the option to renew the lease upon such conditions and rentals, or to purchase the facilities at such price, as may be agreed; provided that (c) any such lease shall require the lessee to pay net rentals sufficient to pay the principal, interest, redemption premiums, and other expenses when due with respect to all city bonds issued for the acquisition or betterment of the facilities, less such amount of taxes and special assessments, if any, as may become payable in any year of the term of the lease, on the land, building, or other facilities leased, and (d) no option shall be granted to purchase the facilities at any time at a price less than the amount required to pay all principal and interest to become due on such bonds to the earliest date or dates on which they may be paid and redeemed, and all redemption premiums and other expenses of such payment and redemption.

Subd. 2. Any such city may issue bonds pursuant to chapter 475, for the acquisition and betterment of land, buildings, and facilities for the purpose of carrying out the powers granted by this section. Such bonds, unless authorized as general obligations of the issuer pursuant to approval of the electors or pursuant to another law or charter provision permitting such issuance without an election, shall be payable solely from the income of land, buildings,

and facilities used or useful for the operation of the program, but may be secured by a pledge to the bondholders, or to a trustee, of all income and revenues of whatsoever nature derived from any such land, buildings, and facilities, as a first charge on the gross revenues thereof to the extent necessary to pay the bonds and interest thereon when due and to accumulate and maintain an additional reserve for that purpose in an amount equal to the total amount of payments to become due in any fiscal year. In this event the governing body of the issuer may by resolution or trust indenture define the land, buildings, or facilities, the revenues of which are pledged, and establish covenants and agreements to be made by the issuer for the security of the bonds, including a covenant that the issuer will establish, maintain, revise when necessary, and collect charges for all services, products, use, and occupancy of the land, buildings, and facilities, in the amounts and at the times required to produce the revenues pledged, and also sufficient, with any other funds appropriated by the governing body from time to time, to provide adequately for the operation and maintenance of the land, buildings, and facilities. After the issuance of any bonds for which revenues are so pledged, the governing body of the issuer shall provide in its budget each year for any anticipated deficiency in the revenues available for such operation and maintenance. For this purpose any issuer may levy a tax on the taxable property within its boundaries, in excess of taxes which may otherwise be levied within charter limitations. The authority to levy additional taxes granted herein shall not apply to cities or towns in which the net tax capacity consists in part of iron ore or lands containing taconite or semitaconite.

[For text of subs 3 to 5, see M.S.1994]

History: 1995 c 256 s 17,18

471.195 UNCLAIMED PROPERTY; DISPOSAL.

(1) Any city may by ordinance provide for the custody and disposal of property lawfully coming into its possession in the course of municipal operations and remaining unclaimed by the owner. Such ordinance may provide for the sale of such property to the highest bidder at public auction or sale or by a private sale through a nonprofit organization that has a significant mission of community service, after the property has been in the possession of the municipality for a period of at least 60 days. If the sale is to be by public auction, the city shall give ten days' published notice describing the property found or recovered and to be sold, and specifying the time and place of the sale. The notice must be published at least once in a legal newspaper published in the city or, if there is none in the city, published in the county. Consistent with other applicable statutory or charter provision, the ordinance shall designate the fund into which the proceeds of any such sale shall be placed, subject to the right of the former owner to payment of the sale price from the fund upon application and satisfactory proof of ownership within six months of the sale or such longer period as provided by ordinance.

(2) This section does not limit the power of any municipality under any other statutory or charter authority.

History: 1995 c 79 s 1

471.425 PROMPT PAYMENT OF LOCAL GOVERNMENT BILLS.

[For text of subs 1 to 4, see M.S.1994]

Subd. 4a. Prompt payment to subcontractors. Each contract of a municipality must require the prime contractor to pay any subcontractor within ten days of the prime contractor's receipt of payment from the municipality for undisputed services provided by the subcontractor. The contract must require the prime contractor to pay interest of 1-1/2 percent per month or any part of a month to the subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of \$100 or more is \$10. For an unpaid balance of less than \$100, the prime contractor shall pay the actual penalty due to the subcontractor. A subcontractor who prevails in a civil action to collect interest penalties from a prime contractor must be awarded its costs and disbursements, including attorney's fees, incurred in bringing the action.

[For text of subd 5, see M.S.1994]

History: 1995 c 31 s 1

471.49 DEFINITIONS.

[For text of subds 1 to 9, see M.S.1994]

Subd. 10. **Public accountant.** "Public accountant" means a certified public accountant, a certified public accounting firm, or a licensed public accountant, all licensed by the board of accountancy under sections 326.17 to 326.229.

History: 1995 c 186 s 119

471.617 SELF-INSURANCE OF EMPLOYEE HEALTH BENEFITS.

[For text of subd 1, see M.S.1994]

Subd. 2. Any two or more statutory or home rule charter cities, counties, school districts, or instrumentalities thereof which together have more than 100 employees may jointly self-insure for any employee health benefits including long-term disability, but not for employee life benefits, subject to the same requirements as an individual self-insurer under subdivision 1. The commissioner of commerce may adopt rules pursuant to chapter 14, providing standards or guidelines for the operation and administration of self-insurance pools.

[For text of subds 3 to 6, see M.S.1994]

History: 1995 c 233 art 2 s 56

471.6965 PUBLICATION OF SUMMARY BUDGET STATEMENT.

Annually, upon adoption of the city budget, the city council shall publish a summary budget statement in either of the following:

- (1) the official newspaper of the city, or if there is none, in a qualified newspaper of general circulation in the city; or
- (2) for a city in the metropolitan area as defined in section 473.121, subdivision 2, a city newsletter or other city mailing sent to all households in the city.

If the summary budget statement is published in a city newsletter, it must be the lead story. If the summary budget statement is published through a city newsletter or other city mailing, a copy of the newsletter or mailing shall be sent on request to any nonresident. If the summary budget statement is published by a mailing to households other than a newsletter, the color of the paper on which the summary budget statement is printed must be distinctively different than the paper containing other printed material included in the mailing.

The statement shall contain information relating to anticipated revenues and expenditures, in a form prescribed by the state auditor. The form prescribed shall be designed so that comparisons can be made between the current year and the budget year. A note shall be included that the complete budget is available for public inspection at a designated location within the city.

History: 1995 c 134 s 2

471.74 BONDS TO RETIRE UNFUNDED INDEBTEDNESS.

[For text of subd 1, see M.S.1994]

Subd. 2. The governing body of any municipality issuing bonds under sections 471.71 to 471.83 shall, at the time of the issuance thereof, by resolution, provide for a levy of taxes for the payment thereof, such levy to be in accordance with the provisions of chapter 475. Such levies shall be subject to the provisions of sections 124.226, 124.2716, 124.91, 124.912, 124.914, 124.916, and 124.918, to the extent that this section applies to the municipality issuing such bonds. In all cases the levies for these bonds shall be spread by the county auditor in full and the levy of the municipality for other purposes shall be reduced, if necessary, so that the total amount levied for the municipality does not exceed said limitations.

[For text of subd 3, see M.S.1994]

History: 1995 c 212 art 4 s 64

471.75 ORDERS, SUFFICIENT FUNDS; CERTIFICATES OF INDEBTEDNESS.

[For text of subd 1, see M.S.1994]

Subd. 2. Whenever, from and after the date provided by subdivision 1, the expenses and obligations incurred chargeable to any particular fund of a municipality subject to sections 471.71 to 471.83 in any year are sufficient to absorb such available cash as may remain in the fund from prior years or may have been received from other sources, plus (in the case of school districts) such amounts as have been certified by the state department of children, families, and learning as due for state aids of any kind, or income tax distributions for said district for such year, plus the percentage of the entire amount of the tax levy for such fund payable in that year indicated in subdivision 3, neither the governing body nor any officer, board, or employee of such taxing district shall have power, and no power shall exist, to create any additional indebtedness (save as the remainder of such tax levy is collected or available money is received from other sources) which shall be a charge against that particular fund or shall be in any manner a valid claim against such municipality; but such additional indebtedness attempted to be created shall be a personal claim against the officer or member of the governing body voting for or attempting to create the same. Whenever the county auditor shall have certified to the municipality the portion of the remainder of the tax levy which has been collected by the county treasurer, such portion shall be deemed to have been collected within the meaning of this section.

[For text of subds 3 to 9, see M.S.1994]

History: 1Sp1995 c 3 art 16 s 13

471.98 SELF-INSURANCE; DEFINITIONS.

[For text of subds 1 and 2, see M.S.1994]

Subd. 3. **Pool.** "Pool" means any self-insurance fund or agreement for the reciprocal assumption of risk established by or among two or more political subdivisions for coverage of their respective risks including, but not limited to, the pools described in section 471.982, subdivision 3.

History: 1995 c 256 s 19

471.981 SELF-INSURANCE COVERAGE BY POLITICAL SUBDIVISION.

[For text of subd 1, see M.S.1994]

Subd. 2. A political subdivision may establish a self insurance revolving fund. The initial amount of the fund shall be determined by the governing body. The governing body may appropriate the amounts necessary to maintain the fund at the level specified in the ordinance or resolution establishing it. Expenditures from the fund may be made for:

- (a) Payment of losses;
- (b) Costs of defense and investigation;
- (c) Premiums and deductible amounts when commercial insurance is purchased for a risk;
- (d) Debt service and debt service related expenses for bonds issued under this section;
- (e) Cost of loss control activities; and
- (f) Any other costs customarily borne by commercial insurers under conventional insurance policies.

[For text of subds 3 and 4, see M.S.1994]

Subd. 4a. **Insurance installment purchase agreement.** A political subdivision may, by resolution of its governing body, and without advertisement for bids, enter into an insur-

ance installment purchase agreement with a self-insurance pool. Such a self-insurance pool may purchase insurance on behalf of the participating political subdivisions and may use insurance installment purchase agreements or other obligations of the participating political subdivisions to provide the participating political subdivisions with coverage against all or any part of the risks enumerated in subdivision 1 and against any risk which the political subdivision is authorized to insure under section 176.181, subdivision 1. Notwithstanding any limitations set forth under section 475.52, a political subdivision which has established a self-insurance revolving fund under subdivision 2 or self-insurance pool may fund insurance claims and reserves and finance insurance installment purchase agreements for the political subdivision, self-insurance pool, or a mutual insurance company established pursuant to subdivision 4 and fund other costs set forth in subdivision 2 by issuing revenue bonds, bonds which are general obligations of the self-insurance pool or mutual insurance company, as applicable, or other obligations secured by payments made or to be made by the political subdivisions or pool. An insurance installment purchase agreement of a participating political subdivision may require that the political subdivision make payments sufficient to produce revenue for the prompt payment of the bonds or other obligations, including all interest and premiums, if any, accruing on them. The insurance installment purchase agreements may provide for additional contributions or premiums if it is actuarially determined that the assets of the insurance installment purchase agreements available to pay claims are insufficient. The insurance installment purchase agreements may be multiyear contracts and shall not be subject to any referendum, public bidding, or net debt limitation requirement of chapter 475.

Subd. 4b. Bond issue for insurance procurement or self-insurance. A self-insurance pool may issue bonds which are general obligations of the self-insurance pool or revenue bonds secured by insurance installment purchase agreements of the participating political subdivisions issued pursuant to subdivision 4a. The pool, with the approval of the governing body of each participating political subdivision, shall fix the total amount needed for the procurement of insurance and shall apportion to each participating political subdivision the political subdivision's share of that amount and of the costs of operation, or of annual debt service or payments required to pay such amount with interest. Notwithstanding any limitations set forth under section 475.52, or any other general or special law or charter to the contrary, a political subdivision may issue revenue bonds or other obligations to provide funds for the purposes, including self-insurance, authorized by this section. Any other law notwithstanding, bonds or other obligations issued under this subdivision may be sold at public or private sale upon the terms and conditions the issuer determines. No election shall be required to authorize the issuance of the obligations, and the obligations shall not be subject to any limitation on net debt. Notwithstanding any limitation imposed by section 475.54, the obligations shall mature in the years the issuer determines. In addition to permitted uses described above, proceeds of obligations issued pursuant to this subdivision may be used to establish a debt service reserve for the obligations, pay costs of issuing the bonds or to refund obligations previously issued pursuant to this subdivision. An issuer of bonds authorized under this subdivision may designate a bank or trust company authorized to exercise trust powers in this state as trustee for the holders of obligations issued pursuant to this subdivision and may create funds and accounts necessary to secure payment of the obligations. Sales proceeds of bonds issued under this subdivision, except for sales proceeds used to pay costs of issuing the bonds shall be invested so that the average life of the investments exceeds the average life of the bonds. The proceeds from bonds issued under this subdivision must be held in trust and may only be paid to the self-insurer according to the schedule of payments set forth in the trust instruments.

A qualified actuary shall certify that the amount of the scheduled payment does not exceed the amount necessary to meet the obligation of the self-insurer at the time payment is scheduled to be made.

Notwithstanding the investment limitations imposed in chapters 118 and 475, proceeds of bonds issued pursuant to this subdivision, and debt service funds and reserves held in connection with them shall be invested solely in governmental bonds, notes, bills, and other securities, which are direct obligations or are guaranteed or insured issues of the United States,

its agencies, its instrumentalities, or organizations created by act of Congress, excluding mortgage-backed securities.

If required by the resolution authorizing the issuance of obligations pursuant to this subdivision, the governing body of each participating political subdivision shall annually levy a tax sufficient to repay the costs of retirement of any bonds or to make payments under insurance installment purchase agreements. Taxes may be levied pursuant to this subdivision without limitation as to rate or amount.

Subd. 4c. Insurance installment purchase; interest rate. Participating political subdivisions may delegate to a self-insurance pool of political subdivisions the power to determine the interest rate on insurance installment purchase agreements provided that the rate is uniform and does not exceed the net effective rate on revenue bonds or other obligations sold by or on behalf of the pool by more than one-fourth of one percent.

[For text of subs 5 to 6, see M.S.1994]

History: 1995 c 256 s 20-23

471.982 REVIEW OF JOINT SELF-INSURANCE POOL.

[For text of subd 1, see M.S.1994]

Subd. 2. The commissioner of commerce is authorized to adopt administrative rules pursuant to chapter 14. These rules may provide standards or guidelines governing the formation, operation, administration, dissolution of self-insurance pools, and other reasonable requirements to further the purpose of this section. In developing the rules under this section, the commissioner shall consider the following:

(a) The requirements for self-insuring pools of political subdivisions shall be no more restrictive and may be less restrictive than the requirements for self-insuring pools of private employers;

(b) All participants in the pool are jointly and severally liable for all claims and expenses of the pool;

(c) Each pool shall contract with a service company licensed by the commissioner to provide or contract for all administrative services required by the pool. No vendor of risk management services or entity administering a self insurance plan under this section may transact such business in this state unless it is licensed to do so by the commissioner pursuant to section 60A.23, subdivision 8;

(d) The service company has sole responsibility for the settlement of all claims against the pool or its members for which the pool may provide indemnification;

(e) A minimum premium volume for each pool shall be established. The minimum premium volume may differ because of the kinds of coverage provided, and the limits of liability for the coverage;

(f) All premiums or other assessments due to the pool from members shall be payable prior to the period for which coverage is being provided, or at equal intervals throughout the period;

(g) Premiums shall be neither excessive, inadequate, nor unfairly discriminatory;

(h) The commissioner may require each pool to purchase excess insurance above certain limits and in a particular form. The limits or form of the excess insurance may differ based on the kinds of coverage offered by a pool, the limits of liability of the coverage, and the revenues available to pool members for the payment of premiums or assessments;

(i) Each pool shall be audited annually by a certified public accountant;

(j) Whether limitations on the payment of dividends to pool members are necessary to assure the solvency of the pool in view of the taxing and levying authority of political subdivisions;

(k) No participant may withdraw from a pool for a period of at least three years after its initial entry into the pool;

(l) The amount of any liabilities in excess of assets shall be assessed to members of the pool within 30 days after a deficiency is identified and shall be payable by the member within 90 days;

(m) The investment policies of the pool shall be governed by the laws governing investments by cities pursuant to section 475.66;

(n) Pools shall be subject to the standards of unfair methods of competition and unfair or deceptive acts or practices established in chapter 72A;

(o) Other requirements that are necessary to protect the solvency of the pool, the rights and privileges of claimants against the pool, and citizens of the members of the pool shall be included in the rules.

[For text of subd 3, see M.S.1994]

History: 1995 c 233 art 2 s 56