

CHAPTER 473

METROPOLITAN GOVERNMENT

473.121	Definitions.	473.598	Arena acquisition.
473.13	Budget, financial aid.	473.599	Debt obligations.
473.146	Policy plans for metropolitan agencies.	473.704	Powers and duties.
473.149	Solid waste comprehensive planning.	473.711	Financing.
473.151	Disclosure.	473.801	Definitions.
473.164	Payment of metropolitan council costs.	473.801	Metropolitan agency recycling goal.
473.167	Highway projects.	473.803	Metropolitan county planning.
473.181	Additional council review powers.	473.804	Household hazardous waste management.
473.192	Aircraft noise attenuation.	473.811	Counties and local units of government; waste management.
473.195	Powers.	473.813	Cities, counties, towns; solid waste contracts.
473.23	Public facilities review.	473.823	Rules and permits.
473.25	Livable communities criteria and guidelines.	473.834	Debt service; solid waste bonds.
473.251	Metropolitan livable communities fund.	473.843	Metropolitan solid waste landfill fee.
473.252	Tax base revitalization account.	473.844	Metropolitan landfill abatement fund.
473.253	Livable communities demonstration account.	473.844	Local recycling development program.
473.254	Local housing incentives account.	473.845	Metropolitan landfill contingency action fund.
473.375	Powers of board.	473.846	Report to legislature.
473.385	Transit service areas.	473.848	Restriction on disposal.
473.386	Special transportation service.	473.858	Comprehensive plans; local governmental units.
473.388	Replacement service program.	473.859	Comprehensive plan content.
473.39	Borrowing money.	473.864	Plans and programs; adoption; amendment.
473.391	Route planning and scheduling.	473.867	Planning assistance; grants; loans.
473.3915	Transit zones.	473.891	Definitions.
473.394	Repealed.	473.893	Board; membership, administration.
473.3993	Light rail transit facility plans; definitions.	473.894	Powers of the board.
473.405	Powers.	473.895	Adverse interests of board members.
473.408	Fare policy.	473.896	Compensation of board members.
473.411	Transit and highway systems.	473.897	Finance.
473.415	Labor provisions.	473.898	Revenue bonds; obligations.
473.436	Commission; borrowing money.	473.899	Depositories.
473.446	Transit tax levies.	473.900	Money; accounts; investments.
473.448	Council; exemption from taxation.	473.901	Use of emergency telephone service fee; budgets; appropriation transfers; audits.
473.449	Act exclusive.	473.902	Operating costs.
473.504	Waste water services.	473.903	Sale of general obligation bonds.
473.505	Total watershed management.	473.904	Local planning.
473.516	Waste facilities; sewage sludge disposal.	473.905	Optional local use of regional system.
473.521	Payments to council.		
473.595	Commission finances.		

473.121 DEFINITIONS.

[For text of subs 1 to 10, see M.S.1994]

Subd. 11. **Independent commission, board or agency.** "Independent commission, board or agency" means governmental entities with jurisdictions lying in whole or in part within the metropolitan area.

[For text of subs 12 to 36, see M.S.1994]

History: 1995 c 186 s 82; 1995 c 236 s 3

473.13 BUDGET, FINANCIAL AID.

Subdivision 1. **Budget.** (a) On or before December 20 of each year the council, after the public hearing required in section 275.065, shall adopt a final budget covering its anticipated receipts and disbursements for the ensuing year and shall decide upon the total amount necessary to be raised from ad valorem tax levies to meet its budget. The budget shall state in detail the expenditures for each program to be undertaken, including the expenses for salaries, consultant services, overhead, travel, printing, and other items. The budget shall state in

detail the capital expenditures of the council for the budget year, based on a five-year capital program adopted by the council and transmitted to the legislature. After adoption of the budget and no later than five working days after December 20, the council shall certify to the auditor of each metropolitan county the share of the tax to be levied within that county, which must be an amount bearing the same proportion to the total levy agreed on by the council as the net tax capacity of the county bears to the net tax capacity of the metropolitan area. The maximum amount of any levy made for the purpose of this chapter may not exceed the limits set by the statute authorizing the levy.

(b) Each even-numbered year the council shall prepare for its transit programs a financial plan for the succeeding three calendar years, in half-year segments. The financial plan must contain the elements specified in section 473.1623, subdivision 3. The financial plan must contain schedules of user charges and any changes in user charges planned or anticipated by the council during the period of the plan. The financial plan must contain a proposed request for state financial assistance for the succeeding biennium.

(c) In addition, the budget must show for each year:

(1) the estimated operating revenues from all sources including funds on hand at the beginning of the year, and estimated expenditures for costs of operation, administration, maintenance, and debt service;

(2) capital improvement funds estimated to be on hand at the beginning of the year and estimated to be received during the year from all sources and estimated cost of capital improvements to be paid out or expended during the year, all in such detail and form as the council may prescribe; and

(3) the estimated source and use of pass-through funds.

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

Subd. 2. Levies. The auditor of each metropolitan county shall add the amount of any levy made by the council within the limits imposed by this chapter to other tax levies imposed within the county for collection by the county treasurer with other taxes. When collected the county treasurer shall make settlement of the taxes with the council in the same manner as other taxes are distributed to political subdivisions. The levy authorized by this section is in addition to any other taxes levied within the county authorized by law.

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

History: 1995 c 236 s 4,5

473.146 POLICY PLANS FOR METROPOLITAN AGENCIES.

Subdivision 1. Requirement. The council shall adopt a long-range comprehensive policy plan for transportation, airports, and wastewater treatment. The plans must substantially conform to all policy statements, purposes, goals, standards, and maps in the development guide developed and adopted by the council under this chapter. Each policy plan must include, to the extent appropriate to the functions, services, and systems covered, the following:

(1) forecasts of changes in the general levels and distribution of population, households, employment, land uses, and other relevant matters, for the metropolitan area and appropriate subareas;

(2) a statement of issues, problems, needs, and opportunities with respect to the functions, services, and systems covered;

(3) a statement of the council's goals, objectives, and priorities with respect to the functions, services, and systems covered, addressing areas and populations to be served, the levels, distribution, and staging of services; a general description of the facility systems required to support the services, and other similar matters;

(4) a statement of policies to effectuate the council's goals, objectives, and priorities;

(5) a statement of the fiscal implications of the council's plan, including a statement of: (i) the resources available under existing fiscal policy; (ii) the adequacy of resources under existing fiscal policy and any shortfalls and unattended needs; (iii) additional resources, if

any, that are or may be required to effectuate the council's goals, objectives, and priorities; and (iv) any changes in existing fiscal policy, on regional revenues and intergovernmental aids respectively, that are expected or that the council has recommended or may recommend;

(6) a statement of the relationship of the policy plan to other policy plans and chapters of the metropolitan development guide;

(7) a statement of the relationships to local comprehensive plans prepared under sections 473.851 to 473.871; and

(8) additional general information as may be necessary to develop the policy plan or as may be required by the laws relating to the metropolitan agency and function covered by the policy plan.

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

History: 1995 c 186 s 119

473.149 SOLID WASTE COMPREHENSIVE PLANNING.

Subdivision 1. Policy plan; general requirements. The director of the office of environmental assistance may revise the metropolitan long range policy plan for solid waste management adopted and revised by the metropolitan council prior to the transfer of powers and duties in Laws 1994, chapter 639, article 5, section 2. The plan shall be followed in the metropolitan area. Until the director revises it, the plan adopted and revised by the council on September 26, 1991, remains in effect. The plan shall address the state policies and purposes expressed in section 115A.02. In revising the plan the director shall follow the procedures in subdivision 3. The plan shall include goals and policies for solid waste management, including recycling consistent with section 115A.551, and household hazardous waste management consistent with section 115A.96, subdivision 6, in the metropolitan area.

The plan shall include criteria and standards for solid waste facilities and solid waste facility sites respecting the following matters: general location; capacity; operation; processing techniques; environmental impact; effect on existing, planned, or proposed collection services and waste facilities; and economic viability. The plan shall, to the extent practicable and consistent with the achievement of other public policies and purposes, encourage ownership and operation of solid waste facilities by private industry. For solid waste facilities owned or operated by public agencies or supported primarily by public funds or obligations issued by a public agency, the plan shall include additional criteria and standards to protect comparable private and public facilities already existing in the area from displacement unless the displacement is required in order to achieve the waste management objectives identified in the plan. In revising the plan, the director shall consider the orderly and economic development, public and private, of the metropolitan area; the preservation and best and most economical use of land and water resources in the metropolitan area; the protection and enhancement of environmental quality; the conservation and reuse of resources and energy; the preservation and promotion of conditions conducive to efficient, competitive, and adaptable systems of waste management; and the orderly resolution of questions concerning changes in systems of waste management. Criteria and standards for solid waste facilities shall be consistent with rules adopted by the pollution control agency pursuant to chapter 116 and shall be at least as stringent as the guidelines, regulations, and standards of the federal Environmental Protection Agency.

Subd. 2. [Repealed, 1995 c 247 art 1 s 67]

Subd. 2a. [Repealed, 1995 c 247 art 1 s 67]

Subd. 2c. [Repealed, 1995 c 247 art 1 s 67]

Subd. 2d. Land disposal abatement plan. (a) The director shall include in the policy plan specific and quantifiable metropolitan objectives for abating to the greatest feasible and prudent extent the need for and practice of land disposal of mixed municipal solid waste and of specific components of the solid waste stream, including residuals and ash, either by type of waste or class of generator.

(b) The objectives must be stated in six-year increments for a period of at least 20 years from the date of adoption of policy plan revisions. The plan must include a reduced estimate of the capacity, based on the abatement objectives, needed for the disposal of various types of waste in each six-year increment.

(c) The plan must include objectives for waste reduction and measurable objectives for local abatement of solid waste through resource recovery, recycling, and source separation programs for each metropolitan county stated in six-year increments for a period of at least 20 years from the date of adoption of policy plan revisions.

(d) The standards must be based upon and implement the metropolitan abatement objectives. The plan must include standards and procedures to be used by the director in determining whether a metropolitan county has implemented the metropolitan land disposal abatement plan and has achieved the objectives for local abatement.

Subd. 2e. Solid waste disposal capacity needs. After requesting and considering recommendations from the counties, cities, and towns, the director as part of the policy plan shall determine the capacity needed to serve the metropolitan area for disposal of solid waste, including residuals and ash, in six-year increments for a period of at least 20 years from adoption of policy plan revisions. In making the capacity determination, the director must take into account the reduced estimate of disposal capacity needed because of the land disposal abatement plan.

The director's determination must include standards and procedures for certification of need pursuant to section 473.823.

Subd. 2f. [Repealed, 1995 c 247 art 1 s 67]

Subd. 3. Preparation; adoption; and revision. (a) The solid waste policy plan shall be prepared, adopted, and revised as necessary in accordance with paragraphs (c) to (e), after consultation with the metropolitan counties and the pollution control agency.

(b) Revisions to the policy plan are exempt from the rulemaking provisions of chapter 14.

(c) Before beginning preparation of revisions to the policy plan, the director shall publish a predrafting notice in the State Register that includes a statement of the subjects expected to be covered by the revisions, including a summary of the important problems and issues. The notice must solicit comments from the public and state that the comments must be received by the director within 45 days of publication of the notice. The director shall consider the comments in preparing the revisions.

(d) After publication of the predrafting notice and before adopting revisions to the policy plan, the director shall publish a notice in the State Register that:

(1) contains a summary of the proposed revisions;

(2) invites public comment;

(3) lists locations where the proposed revised policy plan can be reviewed and states that copies of the proposed revised policy plan can also be obtained from the office;

(4) states a location for a public meeting on the revisions at a time no earlier than 30 days from the date of publication; and

(5) advises the public that they have 30 days from the date of the public meeting in clause (4) to submit comments on the revisions to the director.

(e) At the meeting described in paragraph (d), clause (4), the public shall be given an opportunity to present their views on the policy plan revisions. The director shall incorporate any amendments to the proposed revisions that, in the director's view, will help to carry out the requirements of subdivisions 1, 2d, and 2e. At or before the time that policy plan revisions are finally adopted, the director shall issue a report that addresses issues raised in the public comments. The report shall be made available to the public and mailed to interested persons who have submitted their names and addresses to the director.

(f) The criteria and standards adopted in the policy plan for review of solid waste facility permits pursuant to section 473.823, subdivision 3; for issuance of certificates of need pursuant to section 473.823, subdivision 6; and for review of solid waste contracts pursuant to section 473.813 may be appealed to the court of appeals within 30 days after final adoption of the policy plan. The court may declare the challenged portion of the policy plan invalid if it violates constitutional provisions, is in excess of statutory authority of the director, or was adopted without compliance with the procedures in this subdivision. The review shall be on the record created during the adoption of the policy plan, except that additional evidence may be included in the record if the court finds that the additional evidence is material and there

were good reasons for failure to present it in the proceedings described in paragraphs (c) to (e).

(g) The metropolitan council or a metropolitan county, local government unit, commission, or person shall not acquire, construct, improve or operate any solid waste facility in the metropolitan area except in accordance with the plan and section 473.823, provided that no solid waste facility in use when a plan is adopted shall be discontinued solely because it is not located in an area designated in the plan as acceptable for the location of such facilities.

Subd. 4. Advisory committee. The director shall establish an advisory committee to aid in the preparation of the policy plan, the performance of the director's responsibilities under subdivisions 2d and 2e, the review of county master plans and reports and applications for permits for waste facilities, under sections 473.151 and 473.801 to 473.823, and other duties determined by the director. 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 and one from the Minnesota health department shall serve as ex officio members of the committee.

Subd. 5. [Repealed, 1995 c 247 art 2 s 55]

Subd. 6. Report to legislature. The director shall report on abatement to the legislative commission on waste management by July 1 of each odd-numbered year. The report must include an assessment of whether the objectives of the metropolitan abatement plan have been met and whether each county and each class of city within each county have achieved the objectives set for it in the plan. The report must recommend any legislation that may be required to implement the plan. The report shall be included in the report required by section 115A.411. If in any year the director reports that the objectives of the abatement plan have not been met, the director shall evaluate and report on the need to reassign governmental responsibilities among cities, counties, and metropolitan agencies to assure implementation and achievement of the metropolitan and local abatement plans and objectives.

The report must include a report on the operating, capital, and debt service costs of solid waste facilities in the metropolitan area; changes in the costs; the methods used to pay the costs; and the resultant allocation of costs among users of the facilities and the general public. The facility costs report must present the cost and financing analysis in the aggregate and broken down by county and by major facility.

History: 1995 c 186 s 83; 1995 c 247 art 1 s 47-51; art 2 s 24

473.151 DISCLOSURE.

For the purpose of the rules, plans, and reports required or authorized by sections 473.149, 473.516, 473.801 to 473.823 and this section, each generator of hazardous waste and each owner or operator of a collection service or waste facility annually shall make the following information available to the agency, council, office of environmental assistance, and metropolitan counties: a schedule of rates and charges in effect or proposed for a collection service or the processing of waste delivered to a waste facility and a description, in aggregate amounts indicating the general character of the solid and hazardous waste collection and processing system, of the types and the quantity, by types, of waste generated, collected, or processed. The county, council, office, and agency shall act in accordance with the provisions of section 116.075, subdivision 2, with respect to information for which confidentiality is claimed.

History: 1995 c 247 art 2 s 25

473.164 PAYMENT OF METROPOLITAN COUNCIL COSTS.

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

Subd. 3. At the conclusion of each budget year, the council, in cooperation with each commission, shall adopt a final statement of costs incurred by the council for each commission. Where costs incurred in the budget year have exceeded the amount budgeted, each commission shall transfer to the council the additional moneys needed to pay the amount of the costs in excess of the amount budgeted, and shall include a sum in its next budget. Any

excess of budgeted costs over actual costs may be retained by the council and applied to the payment of budgeted costs in the next year.

History: 1995 c 236 s 6

473.167 HIGHWAY PROJECTS.

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

Subd. 2. Loans for acquisition. The council may make loans to counties, towns, and statutory and home rule charter cities within the metropolitan area for the purchase of property within the right-of-way of a state trunk highway shown on an official map adopted pursuant to section 394.361 or 462.359 or for the purchase of property within the proposed right-of-way of a principal or intermediate arterial highway designated by the council as a part of the metropolitan highway system plan and approved by the council pursuant to subdivision 1. The loans shall be made by the council, from the fund established pursuant to this subdivision, for purchases approved by the council. The loans shall bear no interest. The council shall make loans only: (1) to accelerate the acquisition of primarily undeveloped property when there is a reasonable probability that the property will increase in value before highway construction, and to update an expired environmental impact statement on a project for which the right-of-way is being purchased; (2) to avert the imminent conversion or the granting of approvals which would allow the conversion of property to uses which would jeopardize its availability for highway construction; or (3) to advance planning and environmental activities on highest priority major metropolitan river crossing projects, under the transportation development guide chapter/policy plan. The council shall not make loans for the purchase of property at a price which exceeds the fair market value of the property or which includes the costs of relocating or moving persons or property. A private property owner may elect to receive the purchase price either in a lump sum or in not more than four annual installments without interest on the deferred installments. If the purchase agreement provides for installment payments, the council shall make the loan in installments corresponding to those in the purchase agreement. The recipient of an acquisition loan shall convey the property for the construction of the highway at the same price which the recipient paid for the property. The price may include the costs of preparing environmental documents that were required for the acquisition and that were paid for with money that the recipient received from the loan fund. Upon notification by the council that the plan to construct the highway has been abandoned or the anticipated location of the highway changed, the recipient shall sell the property at market value in accordance with the procedures required for the disposition of the property. All rents and other money received because of the recipient's ownership of the property and all proceeds from the conveyance or sale of the property shall be paid to the council. If a recipient is not permitted to include in the conveyance price the cost of preparing environmental documents that were required for the acquisition, then the recipient is not required to repay the council an amount equal to 40 percent of the money received from the loan fund and spent in preparing the environmental documents. The proceeds of the tax authorized by subdivision 3 and distributed to the right-of-way acquisition loan fund pursuant to subdivision 3a, paragraph (a), all money paid to the council by recipients of loans, and all interest on the proceeds and payments shall be maintained as a separate fund. For administration of the loan program, the council may expend from the fund each year an amount no greater than three percent of the amount of the proceeds distributed to the right-of-way acquisition loan fund pursuant to subdivision 3a, paragraph (a), for that year.

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

Subd. 3. Tax. The council may levy a tax on all taxable property in the metropolitan area, as defined in section 473.121, to provide funds for loans made pursuant to subdivisions 2 and 2a and for the tax base revitalization account in the metropolitan livable communities fund, established under section 473.251. This tax for the right-of-way acquisition loan fund and the tax base revitalization account shall be certified by the council, levied, and collected in the manner provided by section 473.13. The tax shall be in addition to that authorized by section 473.249 and any other law and shall not affect the amount or rate of taxes which may be levied by the council or any metropolitan agency or local governmental unit. The amount of the levy shall be as determined and certified by the council.

The property tax levied by the metropolitan council for the right-of-way acquisition loan fund and the tax base revitalization account shall not exceed the following amount for the years specified:

(a) for taxes payable in 1988, the product of 5/100 of one mill multiplied by the total assessed valuation of all taxable property located within the metropolitan area as adjusted by the provisions of Minnesota Statutes 1986, sections 272.64; 273.13, subdivision 7a; and 275.49;

(b) for taxes payable in 1989, except as provided in section 473.249, subdivision 3, the product of (1) the metropolitan council's property tax levy limitation for the right-of-way acquisition loan fund for the taxes payable year 1988 determined under clause (a) multiplied by (2) an index for market valuation changes equal to the assessment year 1988 total market valuation of all taxable property located within the metropolitan area divided by the assessment year 1987 total market valuation of all taxable property located within the metropolitan area;

(c) for taxes payable in 1990, an amount not to exceed \$2,700,000; and

(d) for taxes payable in 1991 and subsequent years, the product of (1) the metropolitan council's property tax levy limitation for the right-of-way acquisition loan fund for the taxes payable in 1988 determined under clause (a) multiplied by (2) an index for market valuation changes equal to the total market valuation of all taxable property located within the metropolitan area for the current taxes payable year divided by the total market valuation of all taxable property located within the metropolitan area for taxes payable in 1988.

For the purpose of determining the metropolitan council's property tax levy limitation for the right-of-way acquisition loan fund and tax base revitalization account in the metropolitan livable communities fund, under section 473.251, for the taxes payable year 1988 and subsequent years under this subdivision, "total market valuation" means the total market valuation of all taxable property within the metropolitan area without valuation adjustments for fiscal disparities (chapter 473F), tax increment financing (sections 469.174 to 469.179), and high voltage transmission lines (section 273.425).

Subd. 3a. Distribution of tax proceeds. (a) Right-of-way acquisition loan fund. Tax proceeds shall first be deposited into the right-of-way acquisition loan fund in an amount determined by the metropolitan council to be sufficient, considering the other anticipated revenues of and disbursements from the right-of-way acquisition loan fund, to produce a balance in the loan fund at the end of the next calendar year equal to twice the amount of the property tax levy limitation for taxes payable in the next calendar year determined under subdivision 3.

(b) Metropolitan livable communities tax base revitalization account. Any tax proceeds not first deposited into the right-of-way acquisition loan fund shall be distributed to the tax base revitalization account in the metropolitan livable communities fund, established under section 473.251.

[For text of subs 4 and 5, see M.S.1994]

History: 1995 c 255 art 2 s 5-7

473.181 ADDITIONAL COUNCIL REVIEW POWERS.

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

Subd. 4. [Repealed, 1995 c 247 art 2 s 55]

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

473.192 AIRCRAFT NOISE ATTENUATION.

[For text of subs 1 to 3, see M.S.1994]

Subd. 4. Metropolitan airports commission; noise abatement. Nothing in this section shall be construed to diminish the responsibility of the metropolitan airports commission to conduct noise abatement programs under other state or federal law.

History: 1995 c 186 s 84

473.195 POWERS.

Subdivision 1. In addition to, and not in limitation of, all other powers invested in it by law, the council, and the members thereof, shall have, throughout the metropolitan area, the same functions, rights, powers, duties, privileges, immunities and limitations as are provided for housing and redevelopment authorities created for municipalities, and for the commissioners of such authorities. The provisions of sections 469.001 to 469.047 and of all other laws relating to housing and redevelopment authorities shall be applicable to the council when functioning as an authority, except as herein provided or as clearly indicated otherwise from the context of such laws. Section 469.003 shall have no application to the council nor to any municipality or county within which the council undertakes a project. Any municipality or county, and the governing bodies of any municipality or county, within and for which the council undertakes a project shall have all the powers, authority and obligations granted to municipalities and counties by the provisions of sections 469.001 to 469.047 and all other laws relating to housing and redevelopment authorities. The council may plan and propose projects within the boundaries of any municipality, and may otherwise exercise the powers of an authority at any time; provided, however, that the council shall not implement any housing project, housing development project, redevelopment project or urban renewal project within the boundaries of any municipality or county without the prior approval of the governing body of the municipality or county in which any such project is to be located; and provided further that the council shall not propose any project to the governing body of a municipality or county having an active authority created pursuant to section 469.003, or pursuant to special legislation, without first submitting the proposed project to the municipal or county authority for its review and recommendations; and provided further that as to any project proposed by the council and approved by the municipality or county, the council shall not undertake the project if within 60 days after it has been proposed, the municipality or county agrees to undertake the project. Notwithstanding section 469.012, subdivision 3, the council may plan and administer a section 8 program in the metropolitan area without the approval of the governing body of the local governmental unit or housing and redevelopment authority in whose jurisdiction the program is operated. The council shall not operate a section 8 program in the jurisdiction of a local governmental unit or housing and redevelopment authority in the metropolitan area which was operating its own section 8 program under a separate annual contributions contract with the Department of Housing and Urban Development on January 1, 1990, provided that the council may operate or administer a section 8 program within such jurisdictions under the provisions of section 471.59, or any other appropriate law providing for joint or cooperative action between governmental units. For purposes of this subdivision, "section 8 program" has the meaning given it in section 469.002, subdivision 24. For the purposes of this subdivision, "annual contributions contract" has the meaning given it in United States Code, title 42, section 1437f, and implementing federal regulations. All plans and projects of the council shall be consistent with the comprehensive development guide.

[For text of subs 2 to 4, see M.S.1994]

History: 1995 c 112 s 1

473.23 PUBLIC FACILITIES REVIEW.

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

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 children, families, and learning on any school district facility that is proposed within the metropolitan area.

History: 1Sp1995 c 3 art 16 s 13

473.25 LIVABLE COMMUNITIES CRITERIA AND GUIDELINES.

(a) The council shall establish criteria for uses of the fund provided in section 473.251 that are consistent with and promote the purposes of this article and the policies of the metropolitan development guide adopted by the council including, but not limited to:

(1) helping to change long-term market incentives that adversely impact creation and preservation of living-wage jobs in the fully developed area;

(2) creating incentives for developing communities to include a full range of housing opportunities;

(3) creating incentives to preserve and rehabilitate affordable housing in the fully developed area; and

(4) creating incentives for all communities to implement compact and efficient development.

(b) The council shall establish guidelines for the livable community demonstration account for projects that the council would consider funding with either grants or loans. The guidelines must provide that the projects will:

(1) interrelate development or redevelopment and transit;

(2) interrelate affordable housing and employment growth areas;

(3) intensify land use that leads to more compact development or redevelopment;

(4) involve development or redevelopment that mixes incomes of residents in housing, including introducing or reintroducing higher value housing in lower income areas to achieve a mix of housing opportunities; or

(5) encourage public infrastructure investments which connect urban neighborhoods and suburban communities, attract private sector redevelopment investment in commercial and residential properties adjacent to the public improvement, and provide project area residents with expanded opportunities for private sector employment.

(c) The council shall establish guidelines governing who may apply for a grant or loan from the fund, providing priority for proposals using innovative partnerships between government, private for-profit, and nonprofit sectors.

(d) The council shall prepare an annual plan for distribution of the fund based on the criteria for project and applicant selection.

(e) The council shall prepare and submit to the legislature, as provided in section 3.195, an annual report on the metropolitan livable communities fund. The report must include information on the amount of money in the fund, the amount distributed, to whom the funds were distributed and for what purposes, and an evaluation of the effectiveness of the projects funded in meeting the policies and goals of the council. The report may make recommendations to the legislature on changes to Laws 1995, chapter 255.

History: 1995 c 255 art 1 s 1

473.251 METROPOLITAN LIVABLE COMMUNITIES FUND.

The metropolitan livable communities fund is created and consists of the following accounts:

(1) the tax base revitalization account;

(2) the livable communities demonstration account; and

(3) the local housing incentives account.

History: 1995 c 255 art 1 s 2

473.252 TAX BASE REVITALIZATION ACCOUNT.

Subdivision 1. Definition. For the purposes of this section, "municipality" means a statutory or home rule charter city or town participating in the local housing incentives program under section 473.254, or a county in the metropolitan area.

Subd. 2. Sources of funds. The council shall credit to the tax base revitalization account within the fund the amount, if any, provided for under section 473.167, subdivision 3a, paragraph (b), and the amount, if any, distributed to the council under section 473F.08, subdivision 3b.

Subd. 3. Distribution of funds. (a) The council must use the funds in the account to make grants to municipalities for the cleanup of polluted land in the metropolitan area. A grant to a metropolitan county must be used for a project in a participating municipality. The council shall prescribe and provide the grant application form to municipalities. The council

must consider the probability of funding from other sources when making grants under this section.

(b)(1) The legislature expects that applications for grants will exceed the available funds and the council will be able to provide grants to only some of the applicant municipalities. If applications for grants for qualified sites exceed the available funds, the council shall make grants that provide the highest return in public benefits for the public costs incurred, that encourage commercial and industrial development that will lead to the preservation or growth of living-wage jobs and that enhance the tax base of the recipient municipality.

(2) In making grants, the council shall establish regular application deadlines in which grants will be awarded from the available money in the account. If the council provides for application cycles of less than six-month intervals, the council must reserve at least 40 percent of the receipts of the account for a year for application deadlines that occur in the second half of the year. If the applications for grants exceed the available funds for an application cycle, no more than one-half of the funds may be granted to projects in a statutory or home rule charter city and no more than three-quarters of the funds may be granted to projects located in cities of the first class.

(c) A municipality may use the grant to provide a portion of the local match requirement for project costs that qualify for a grant under sections 116J.551 to 116J.557.

History: 1995 c 255 art 1 s 3

473.253 LIVABLE COMMUNITIES DEMONSTRATION ACCOUNT.

Subdivision 1. Sources of funds. The council shall credit to the livable communities demonstration account the revenues provided in this subdivision. This tax shall be levied and collected in the manner provided by section 473.13. The levy shall not exceed the following amount for the years specified:

(a)(1) for taxes payable in 1996, 50 percent of (i) the metropolitan mosquito control commission's property tax levy for taxes payable in 1995 multiplied by (ii) an index for market valuation changes equal to the total market valuation of all taxable property located within the metropolitan area for the current taxes payable year divided by the total market valuation of all taxable property located in the metropolitan area for the previous taxes payable year; and

(2) for taxes payable in 1997 and subsequent years, the product of (i) the property tax levy limit under this subdivision for the previous year multiplied by (ii) an index for market valuation changes equal to the total market valuation of all taxable property located within the metropolitan area for the current taxes payable year divided by the total market valuation of all taxable property located in the metropolitan area for the previous taxes payable year.

For the purposes of this subdivision, "total market valuation" means the total market valuation of all taxable property within the metropolitan area without valuation adjustments for fiscal disparities under chapter 473F, tax increment financing under sections 469.174 to 469.179, and high voltage transmission lines under section 273.425.

(b) The metropolitan council, for the purposes of the fund, is considered a unique taxing jurisdiction for purposes of receiving aid pursuant to section 273.1398. For aid to be received in 1996, the fund's homestead and agricultural credit base shall equal 50 percent of the metropolitan mosquito control commission's certified homestead and agricultural credit aid for 1995, determined under section 273.1398, subdivision 2, less any permanent aid reduction under section 477A.0132. For aid to be received under section 273.1398 in 1997 and subsequent years, the fund's homestead and agricultural credit base shall be determined in accordance with section 273.1398, subdivision 1.

Subd. 2. Distribution of funds. The council shall use the funds in the livable communities demonstration account to make grants or loans to municipalities participating in the local housing incentives program under section 473.254 or to metropolitan area counties to fund the initiatives specified in section 473.25, paragraph (b), in participating municipalities.

History: 1995 c 255 art 1 s 4

473.254 LOCAL HOUSING INCENTIVES ACCOUNT.

Subdivision 1. Participation. (a) By November 15 of each year, a municipality may elect to participate in the local housing incentive account program. If a municipality does not

elect to participate for the year, it is not subject to this section. For purposes of this section, municipality means a municipality electing to participate in the local housing incentive account program, unless the context indicates otherwise.

(b) A municipality that elects to participate may receive grants or loans from the tax base revitalization account, livable communities demonstration account, or the local housing incentive account. A municipality that does not participate is not eligible to receive a grant under sections 116J.551 to 116J.557. The council, when making discretionary funding decisions, shall give consideration to a municipality's participation in the local housing incentives program.

Subd. 2. Affordable and life-cycle housing goals. The council shall negotiate with each municipality to establish affordable and life-cycle housing goals for that municipality that are consistent with and promote the policies of the metropolitan council as provided in the adopted metropolitan development guide. The council shall adopt, by resolution after a public hearing, the negotiated affordable and life-cycle housing goals for each municipality by January 15, 1996. By June 30, 1996, each municipality shall identify to the council the actions it plans to take to meet the established housing goals.

Subd. 3. Affordable and life-cycle housing opportunities amount. (1) By July 1, 1996, each county assessor shall certify each municipality's average residential homestead limited market value for the 1994 assessment year, including the value of the farm house, garage, and one acre only in the case of farm homesteads, multiplied by a factor of two, as the municipality's "market value base amount." For 1997 and thereafter, the "market value base amount" shall be equal to the product of (i) the market value base amount for the previous year multiplied by (ii) the annual average United States Consumer Price Index for all urban consumers, United States average, as determined by the United States Department of Labor, for the previous year divided by that annual average for the year before the previous year.

(2) By July 1, 1996, and each succeeding year the county assessor shall determine which homesteads have market values in excess of the municipality's market value base amount and the county auditor shall certify the aggregate net tax capacity corresponding to the amount by which those homesteads' market values exceed the municipality's market value base amount as the "net tax capacity excess amount" for the assessment year corresponding to the current taxes payable year. By July 1, 1996, the county auditor shall also certify the net tax capacity excess amount for taxes payable in 1995.

(3) By July 1, 1996, and each succeeding year, the county auditor shall also certify each municipality's local tax rate for the current taxes payable year.

(4) By July 1, 1996, and each succeeding year, the county auditor shall certify for each municipality the amount equal to four percent of the municipality's current year total residential homestead tax capacity multiplied by the local tax rate.

(5) By August 1, 1996, and each succeeding year, the metropolitan council shall notify each municipality of its "affordable and life-cycle housing opportunities amount" for the following calendar year equal to the lesser of the amount certified under clause (4) or the amount, if any, by which the net tax capacity excess amount for the current year exceeds the amount for taxes payable in 1995, multiplied by the municipality's local tax rate certified in clause (3).

Subd. 4. Affordable and life-cycle housing requirement. (a) A municipality that is determined by the council to have met its affordable and life-cycle housing goals in the previous calendar year may retain the amount calculated under subdivision 3 to maintain existing affordable and life-cycle housing.

(b) In 1998, and thereafter, a municipality that is determined by the council not to have met the affordable and life-cycle housing goals in the previous calendar year, as negotiated and agreed to with the council, and not to have spent 85 percent of its affordable and life-cycle housing opportunities amount to create affordable and life-cycle housing opportunities in the previous calendar year must do one of the following with the affordable and life-cycle housing opportunities amount for the previous year as determined under subdivision 3:

(1) distribute it to the local housing incentives account; or

(2) distribute it to the housing and redevelopment authority of the city or county in which the municipality is located to create affordable and life-cycle housing opportunities in the municipality.

A municipality may enter into agreements with adjacent municipalities to cooperatively provide affordable and life-cycle housing. The housing may be provided in any of the cooperating municipalities, but must meet the combined housing goals of each participating municipality.

Subd. 5. Sources of funds. (a) The council shall credit to the local housing incentives account any revenues derived from municipalities under subdivision 4, paragraph (b), clause (1).

(b) The council shall credit \$1,000,000 of the proceeds of solid waste bonds issued by the council under Minnesota Statutes, section 473.831, before its repeal, to the local housing incentives account in the metropolitan livable communities fund. In 1998 and each year thereafter, the council shall credit \$1,000,000 of the revenues generated by the levy authorized in section 473.249 to the local housing incentives account.

(c) In 1997, and each year thereafter, the council shall transfer \$500,000 from the livable communities demonstration account to the local housing incentives account.

Subd. 6. Distribution of funds. The funds in the account must be distributed annually by the council to municipalities that:

(1) have not met their affordable and life-cycle housing goals as determined by the council; and

(2) are actively funding projects designed to help meet the goals.

The funds distributed by the council must be matched on a dollar-for-dollar basis by the municipality receiving the funds. When distributing funds in the account, the council must give priority to those municipalities that (1) have contribution net tax capacities that exceed their distribution net tax capacities by more than \$200 per household, (2) demonstrate the proposed project will link employment opportunities with affordable and life-cycle housing, and (3) provide matching funds from a source other than the required amount under subdivision 3. For the purposes of this subdivision, "municipality" means a statutory or home rule charter city or town in the metropolitan area.

Subd. 7. Reporting requirement. Beginning January 15, 1998, and annually thereafter, each municipality must report to the council the following:

(1) the tax revenues defined in subdivision 3 that were levied in the prior year;

(2) the portion of the revenues that were spent on meeting the municipality's affordable and life-cycle housing goals; and

(3) information on how the expenditures directly support the municipality's efforts to meet its affordable and life-cycle housing goals.

The council shall verify each municipality's compliance with this subdivision.

Subd. 8. Later election to participate. If a municipality did not participate for one or more years and elects later to participate, the municipality must establish that it has spent or agrees to spend on affordable and life-cycle housing, or agrees to distribute to the local housing incentives account, an amount equivalent to what it would have spent on affordable and life-cycle housing had goals been established under this section for the period in which it was not participating. The council will determine which investments count toward the required cumulative investment amount by comparing the municipality to participating municipalities similar in terms of stage of development and demographics. If it determines it to be in the best interests of the region, the council may waive a reasonable portion of the cumulative investment amount.

Subd. 9. Report to the legislature. By February 1 of each year, the council must report to the legislature the municipalities that have elected to participate and not to participate under subdivision 1. This report must be filed as provided in section 3.195.

Subd. 10. Comprehensive report card on affordable and life-cycle housing. The metropolitan council shall present to the legislature and release to the public by November 15, 1996, and each year thereafter a comprehensive report card on affordable and life-cycle

housing in each municipality in the metropolitan area. The report card must include information on government, nonprofit, and marketplace efforts.

History: 1995 c 255 art 1 s 5

473.375 POWERS OF BOARD.

Subd. 9. Advisory committees. The council may establish one or more advisory committees composed of and representing transit providers, transit users, and local units of government to advise it in carrying out its purposes. The members of advisory committees serve without compensation.

[For text of subs 11 and 12, see M.S.1994]

Subd. 13. Financial assistance. The council may provide financial assistance to public transit providers as provided in sections 473.371 to 473.449. The council may not use the proceeds of bonds issued under section 473.39 to provide capital assistance to private, for-profit operators of public transit, unless the operators provide service under a contract with the council, the former regional transit board, or recipients of financial assistance under sections 473.371 to 473.449.

No political subdivision within the metropolitan area may apply for federal transit assistance unless its application has been submitted to and approved by the council.

[For text of subs 14 and 15, see M.S.1994]

History: 1995 c 236 s 7,8

473.385 TRANSIT SERVICE AREAS.

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

Subd. 2. Service areas. The council may provide financial assistance (whether directly or through another entity) to private, for-profit operators of public transit only for the following services:

- (1) services that are not regular route services;
- (2) regular route services provided on June 2, 1989, by a private, for-profit operator under contract with the former regional transit board or under a certificate of convenience and necessity issued by the transportation regulation board;
- (3) regular route services outside of the fully developed service area that are not operated on June 2, 1989, by the former metropolitan transit commission;
- (4) regular route services provided under section 473.388;
- (5) regular route services to recipients who, as part of a negotiated cost-sharing arrangement with the council, pay at least 50 percent of the cost of the service that directly benefits the recipient as an institution or organization; or
- (6) regular route services that will not be operated for a reasonable subsidy by the council.

History: 1995 c 236 s 9

473.386 SPECIAL TRANSPORTATION SERVICE.

Subdivision 1. Service objectives. The council shall implement a special transportation service, as defined in section 174.29, in the metropolitan area. The service has the following objectives:

- (a) to provide greater access to transportation for the elderly, people with disabilities, and others with special transportation needs in the metropolitan area;
- (b) to develop an integrated system of special transportation service providing transportation tailored to meet special individual needs in the most cost-efficient manner; and
- (c) to use existing public, private, and private nonprofit providers of service wherever possible, to supplement rather than replace existing service, and to increase the productivity of all special transportation vehicles available in the area.

Subd. 2. Service contracts; management; transportation accessibility advisory committee. (a) The council may contract for services necessary for the provision of special transportation. Transportation service provided under a contract must specify the service to be provided, the standards that must be met, and the rates for operating and providing special transportation services.

(b) The council shall establish management policies for the service and may contract with a service administrator for day-to-day administration and management of the service. Any contract must delegate to the service administrator clear authority to administer and manage the delivery of the service pursuant to council management policies and must establish performance and compliance standards for the service administrator. The council may provide directly day to day administration and management of the service and may own or lease vehicles used to provide the service.

(c) The council shall ensure that the service administrator establishes a system for registering and expeditiously responding to complaints by users, informing users of how to register complaints, and requiring providers to report on incidents that impair the safety and well-being of users or the quality of the service. The council shall annually report to the commissioner of transportation and the legislature on complaints and provider reports, the response of the service administrator, and steps taken by the council and the service administrator to identify causes and provide remedies to recurring problems.

(d) Each year before renewing contracts with providers and the service administrator, the council shall provide an opportunity for the transportation accessibility advisory committee, users, and other interested persons to testify before the council concerning providers, contract terms, and other matters relating to council policies and procedures for implementing the service.

(e) The council shall establish a transportation accessibility advisory committee. The transportation accessibility advisory committee must include elderly and disabled persons, other users of special transportation service, representatives of persons contracting to provide special transportation services, and representatives of appropriate agencies for elderly and disabled persons to advise the council on management policies for the service. At least half the transportation accessibility advisory committee members must be disabled or elderly persons or the representatives of disabled or elderly persons. Two of the appointments to the transportation accessibility advisory committee shall be made by the council on disability in consultation with the chair of the metropolitan council.

[For text of subds 2a to 4, see M.S.1994]

Subd. 5. Equitable allocation and annual reallocation. The council shall distribute all available funding under this section in a manner designed to achieve an equitable allocation of special transportation services based on the proportion of the number of elderly, disabled, or economically disadvantaged individuals with special transportation needs who actually use the special transportation service.

[For text of subd 6, see M.S.1994]

History: 1995 c 236 s 10-12

473.388 REPLACEMENT SERVICE PROGRAM.

[For text of subds 1 to 3, see M.S.1994]

Subd. 4. Financial assistance. The council may grant the requested financial assistance if it determines that the proposed service is intended to replace the service to the applying city or town or combination thereof by the council and that the proposed service will meet the needs of the applicant at least as efficiently and effectively as the existing service.

The amount of assistance which the council may provide under this section may not exceed the sum of:

(a) the portion of the available local transit funds which the applicant proposes to use to subsidize the proposed service; and

(b) an amount of financial assistance bearing an identical proportional relationship to the amount under clause (a) as the total amount of funds used by the council to fund its transit

operations bears to the total amount of taxes collected by the council under section 473.446. The council shall pay the amount to be provided to the recipient from the funds the council would otherwise use to fund its transit operations.

For purposes of this section, "available local transit funds" means 90 percent of the tax revenues which would accrue to the council from the tax it levies under section 473.446 in the applicant city or town or combination thereof.

For purposes of this section, "tax revenues" in the city or town means the sum of the following:

(1) the nondebt spread levy, which is the total of the taxes extended by application of the local tax rate for nondebt purposes on the taxable net tax capacity;

(2) the portion of the fiscal disparity distribution levy under section 473F.08, subdivision 3, attributable to nondebt purposes; and

(3) the portion of the homestead credit and agricultural credit aid and disparity reduction aid amounts under section 273.1398, subdivisions 2 and 3, attributable to nondebt purposes.

Tax revenues do not include the state feathering reimbursement under section 473.446.

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

History: 1995 c 236 s 13

473.39 BORROWING MONEY.

[For text of subs 1 and 1a, see M.S.1994]

Subd. 1b. Obligations. The council may also issue certificates of indebtedness, bonds, or other obligations under this section in an amount not exceeding \$62,000,000, of which \$44,000,000 may be used for council transit for fleet replacement, transit facilities, and transit capital equipment, and \$18,000,000 may be used for transit hubs, park-and-ride lots, community-based transit vehicles and replacement service program vehicles, intelligent vehicle highway systems projects, and other capital expenditures as prescribed in the council's transit capital improvement program, and related costs including the cost of issuance and sale of the obligations. For the purposes of this subdivision, uniforms are not capital expenditures.

Subd. 2. Legal investments. Certificates of indebtedness, bonds, or other obligations issued by the council to which tax levies have been pledged pursuant to section 473.446, are proper for investment of any funds by a bank, savings bank, savings association, credit union, trust company, insurance company, or public or municipal corporation, and may be pledged by any bank, savings bank, savings association, credit union, or trust company as security for the deposit of public money.

[For text of subd 4, see M.S.1994]

History: 1995 c 202 art 1 s 25; 1995 c 236 s 14

473.391 ROUTE PLANNING AND SCHEDULING.

The council may contract with other operators or local governments for route planning and scheduling services in any configuration of new or reconfiguration of existing transit services and routes, including route planning and scheduling necessary for the test marketing program, the service bidding program, and the interstate highway described generally as legislative routes Nos. 10 and 107 between I-494 and the Hawthorne interchange in the city of Minneapolis, commonly known as I-394.

History: 1995 c 265 art 1 s 2

473.3915 TRANSIT ZONES.

Subdivision 1. Definitions. For the purposes of this section, the terms defined in subdivisions 2 and 3 have the meanings given them.

Subd. 2. Regular route transit service. "Regular route transit service" means services as defined in section 473.385, subdivision 1, paragraph (b), with at least two scheduled runs per hour between 7:00 a.m. and 6:30 p.m., Monday to Friday, and regularly scheduled service on Saturday, Sunday, and holidays, and weekdays after 6:30 p.m.

Subd. 3. Transit zone. "Transit zone" means the area within one-quarter of a mile of a route along which regular route transit service is provided that is also within the metropolitan urban service area, as determined by the council. "Transit zone" includes any light rail transit route for which funds for construction have been committed.

Subd. 4. Transit zones; map and plan. For the purposes of section 273.13, subdivision 24, the council shall designate transit zones and identify them on a detailed map and in a plan. The council shall review the map and plan once a year and revise them as necessary to indicate the current transit zones. The council shall provide each county and city assessor in the metropolitan area a copy of the current map and plan.

Subd. 5. Transit zone map; date first produced. The metropolitan council shall produce an initial version of the transit zone map required under subdivision 4 by January 1, 1996.

Subd. 6. Application. This section applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

History: 1995 c 264 art 3 s 27

NOTE: This section, as added by Laws 1995, chapter 264, article 3, section 27, is effective for the 1997 assessment and thereafter, for taxes payable in 1998 and thereafter. See Laws 1995, chapter 264, article 3, section 52.

473.394 [Repealed, 1995 c 236 s 21]

473.3993 LIGHT RAIL TRANSIT FACILITY PLANS; DEFINITIONS.

Subdivision 1. Application. The definitions in this section apply to section 473.3994.

[For text of subs 2 to 3, see M.S.1994]

History: 1995 c 186 s 85

473.405 POWERS.

Subdivision 1. General. The metropolitan council has the powers and duties prescribed by this section and sections 473.407 to 473.449 and all powers necessary or convenient to discharge its duties.

[For text of subs 3 to 10, see M.S.1994]

Subd. 12. Management contracts. Notwithstanding any of the other provisions of this section and sections 473.407 to 473.449, the council may, in lieu of directly operating any public transit system or any part thereof, enter into contracts for management services. The contracts may provide for compensation, incentive fees, the employment of personnel, the services provided, and other terms and conditions that the council deems proper. The contracts must provide that the compensation of personnel who work full time or substantially full time providing management or other services for the council is public data under chapter 13.

The council may not permit a contract manager to supervise or manage internal audit activities. Internal audit activity must be supervised and managed directly by the council. The council shall advertise for bids and select contracts for management services through competitive bidding. The term of the contract may not be longer than two years. The contract must include clear operating objectives, stating the service policies and goals of the council in terms of the movement of various passenger groups, and performance criteria, by means of which success in achieving the operating objectives can be measured. The council shall consider and determine the feasibility and desirability of having all its transit management services provided internally by employees of the council.

The employees of any public transit system operated pursuant to the provisions of this subdivision for the purpose of resolving any dispute arising under any existing or new collective bargaining agreement relating to the terms or conditions of their employment, may ei-

ther engage in a concerted refusal to work or to invoke the processes of final and binding arbitration as provided by chapter 572, subject to any applicable provisions of the agreement not inconsistent with law.

[For text of subd 15, see M.S.1994]

History: 1995 c 186 s 86,87

473.408 FARE POLICY.

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

Subd. 2. Fare policy. (a) Fares and fare collection systems shall be established and administered to accomplish the following purposes:

(1) to encourage and increase transit and paratransit ridership with an emphasis on regular ridership;

(2) to restrain increases in the average operating subsidy per passenger;

(3) to ensure that no riders on any route pay more in fares than the average cost of providing the service on that route;

(4) to ensure that operating revenues are proportioned to the cost of providing the service so as to reduce any disparity in the subsidy per passenger on routes in the transit system; and

(5) to implement the social fares as set forth in subdivision 2b.

(b) The plan must contain a statement of the policies that will govern the imposition of user charges for various types of transit service and the policies that will govern decisions by the council to change fare policy.

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

Subd. 2b. Social fares. For the purposes of raising revenue for improving public safety on transit vehicles and at transit hubs or stops, the council shall review and may adjust its social fares as they relate to passengers under the age of 18 during high crime times provided that the increased revenues are dedicated to improving the safety of all passengers.

[For text of subsd 4 to 7, see M.S.1994]

History: 1995 c 260 s 7,8

473.411 TRANSIT AND HIGHWAY SYSTEMS.

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

Subd. 4. State highways; joint use for transit and highway purposes. Wherever the joint construction or use of a state highway is feasible in fulfilling the purposes of sections 473.405 to 473.449, the council shall enter into an agreement with the commissioner of transportation therefor, evidenced by a memorandum setting forth the terms of the agreement. Either the council or the commissioner of transportation may acquire any additional lands, waters, easements or other rights or interests required for joint use in accordance with the agreement, or joint acquisition may be made by condemnation as provided by section 117.016 and the provisions of sections 473.405 to 473.449. Under the agreement each party shall pay to the other party reasonable compensation for the costs of any services performed at the request of the other party which may include any costs of engineering, design, acquisition of property, construction of the facilities, and for the use thereof so far as attributable to and necessary for the purposes. The council may not agree to acquisitions or expenditures under this subdivision which are not included in its budget.

Subd. 5. Use of public roadways and appurtenances. The council may use for the purposes of sections 473.405 to 473.449 upon the conditions stated in this subdivision any state highway or other public roadway, parkway, or lane, or any bridge or tunnel or other appurtenance of a roadway, without payment of any compensation, provided the use does not interfere unreasonably with the public use or maintenance of the roadway or appurtenance or en-

tail any substantial additional costs for maintenance. The provisions of this subdivision do not apply to the property of any common carrier railroad or common carrier railroads. The consent of the public agency in charge of such state highway or other public highway or roadway or appurtenance is not required; except that if the council seeks to use a designated parkway for regular route service in the city of Minneapolis, it must obtain permission from and is subject to reasonable limitations imposed by a joint board consisting of two representatives from the council, two members of the board of park commissioners, and a fifth member jointly selected by the representatives of the council and the park board.

The board of park commissioners and the council may designate persons to sit on the joint board. In considering a request by the council to use designated parkways for additional routes or trips, the joint board consisting of the council or their designees, the board of park commissioners or their designees, and the fifth member, shall base its decision to grant or deny the request based on the criteria to be established by the joint board. The decision to grant or deny the request must be made within 45 days of the date of the request. The park board must be notified immediately by the council of any temporary route detours. If the park board objects to the temporary route detours within five days of being notified, the joint board must convene and decide whether to grant the request, otherwise the request is deemed granted. If the agency objects to the proposed use or claims reimbursement from the council for additional cost of maintenance, it may commence an action against the council in the district court of the county wherein the highway, roadway, or appurtenance, or major portion thereof, is located. The proceedings in the action must conform to the rules of civil procedure applicable to the district courts. The court shall sit without jury. If the court determines that the use in question interferes unreasonably with the public use or maintenance of the roadway or appurtenance, it shall enjoin the use by the council. If the court determines that the use in question does not interfere unreasonably with the public use or maintenance of the roadway or appurtenance, but that it entails substantial additional maintenance costs, the court shall award judgment to the agency for the amount of the additional costs. Otherwise the court shall award judgment to the council. An aggrieved party may appeal from the judgment of the district court in the same manner as is provided for such appeals in other civil actions. The council may also use land within the right-of-way of any state highway or other public roadway for the erection of traffic control devices, other signs, and passenger shelters upon the conditions stated in this subdivision and subject only to the approval of the commissioner of transportation where required by statute, and subject to the express provisions of other applicable statutes and to federal requirements where necessary to qualify for federal aid.

History: 1995 c 186 s 119

473.415 LABOR PROVISIONS.

Subdivision 1. If the council acquires an existing transit system, the council shall assume and observe all existing labor contracts and pension obligations. All employees of such system except executive and administrative officers who are necessary for the operation thereof by the council shall be transferred to and appointed as employees of the council for the purposes of the transit system, subject to all the rights and benefits of sections 473.405 to 473.449. Such employees shall be given seniority credit and sick leave, vacation, insurance, and pension credits in accordance with the records or labor agreements from the acquired transit system. The council shall assume the obligations of any transit system acquired by it with regard to wages, salaries, hours, working conditions, sick leave, health and welfare and pension or retirement provisions for employees. The council and the employees, through their representatives for collective bargaining purposes, shall take whatever action may be necessary to have pension trust funds presently under the joint control of the acquired system and the participating employees through their representatives transferred to the trust fund to be established, maintained and administered jointly by the council and the participating employees through their representatives. No employee of any acquired system who is transferred to a position with the council shall by reason of such transfer be placed in any worse position with respect to workers' compensation, pension, seniority, wages, sick leave, vacation, health and welfare insurance or any other benefits than the employee enjoyed as an employee of such acquired system.

[For text of subs 2 and 3, see M.S.1994]

History: 1995 c 186 s 119

473.436 COMMISSION; BORROWING MONEY.

Subd. 2. **Legal investments.** Certificates of indebtedness, bonds, or other obligations issued by the council to which tax levies have been pledged pursuant to section 473.446, subdivision 1, shall be proper for investment of any funds by any bank, savings bank, savings association, credit union, trust company, insurance company or public or municipal corporation, and may be pledged by any bank, savings bank, savings association, credit union, or trust company as security for the deposit of public moneys.

[For text of subs 3 and 6, see M.S.1994]

History: 1995 c 202 art 1 s 25

473.446 TRANSIT TAX LEVIES.

Subdivision 1. **Taxation within transit taxing district.** For the purposes of sections 473.405 to 473.449 and the metropolitan transit system, except as otherwise provided in this subdivision, the council shall levy each year upon all taxable property within the metropolitan transit taxing district, defined in subdivision 2, a transit tax consisting of:

(a) an amount which shall be used for payment of the expenses of operating transit and paratransit service and to provide for payment of obligations issued by the council under section 473.436, subdivision 6;

(b) an additional amount, if any, the council determines to be necessary to provide for the full and timely payment of its certificates of indebtedness and other obligations outstanding on July 1, 1985, to which property taxes under this section have been pledged; and

(c) an additional amount necessary to provide full and timely payment of certificates of indebtedness, bonds, including refunding bonds or other obligations issued or to be issued under section 473.39 by the council for purposes of acquisition and betterment of property and other improvements of a capital nature and to which the council has specifically pledged tax levies under this clause.

The property tax levied by the council for general purposes under clause (a) must not exceed the following amount for the years specified:

(1) for taxes payable in 1995, the council's property tax levy limitation for general transit purposes is equal to the former regional transit board's property tax levy limitation for general transit purposes under this subdivision, for taxes payable in 1994, multiplied by an index for market valuation changes equal to the total market valuation of all taxable property located within the metropolitan transit taxing district for the current taxes payable year divided by the total market valuation of all taxable property located within the metropolitan transit taxing district for the previous taxes payable year; and

(2) for taxes payable in 1996 and subsequent years, the product of (i) the council's property tax levy limitation for general transit purposes for the previous year determined under this subdivision multiplied by (ii) an index for market valuation changes equal to the total market valuation of all taxable property located within the metropolitan transit taxing district for the current taxes payable year divided by the total market valuation of all taxable property located within the metropolitan transit taxing district for the previous taxes payable year.

For the taxes payable year 1995, the index for market valuation changes shall be multiplied by an amount equal to the sum of the regional transit board's property tax levy limitation for the taxes payable year 1994 and \$160,665. The \$160,665 increase shall be a permanent adjustment to the levy limit base used in determining the regional transit board's property tax levy limitation for general purposes for subsequent taxes payable years.

For the purpose of determining the council's property tax levy limitation for general transit purposes under this subdivision, "total market valuation" means the total market valuation of all taxable property within the metropolitan transit taxing district without valuation adjustments for fiscal disparities (chapter 473F), tax increment financing (sections 469.174 to 469.179), and high voltage transmission lines (section 273.425).

The county auditor shall reduce the tax levied pursuant to this subdivision on all property within statutory and home rule charter cities and towns that receive full-peak service and limited off-peak service by an amount equal to the tax levy that would be produced by applying a rate of 0.510 percent of net tax capacity on the property. The county auditor shall reduce the tax levied pursuant to this subdivision on all property within statutory and home rule charter cities and towns that receive limited peak service by an amount equal to the tax levy that would be produced by applying a rate of 0.765 percent of net tax capacity on the property. The amounts so computed by the county auditor shall be submitted to the commissioner of revenue as part of the abstracts of tax lists required to be filed with the commissioner under section 275.29. Any prior year adjustments shall also be certified in the abstracts of tax lists. The commissioner shall review the certifications to determine their accuracy and may make changes in the certification as necessary or return a certification to the county auditor for corrections. The commissioner shall pay to the council the amounts certified by the county auditors on the dates provided in section 273.1398. There is annually appropriated from the general fund in the state treasury to the department of revenue the amounts necessary to make these payments.

For the purposes of this subdivision, "full-peak and limited off-peak service" means peak period regular route service, plus weekday midday regular route service at intervals longer than 60 minutes on the route with the greatest frequency; and "limited peak period service" means peak period regular route service only.

For the purposes of property taxes payable in the following year, the council shall annually determine which cities and towns qualify for the 0.510 percent or 0.765 percent tax capacity rate reduction and shall certify this list to the county auditor of the county wherein such cities and towns are located on or before September 15. No changes may be made to the annual list after September 15.

Subd. 1a. Taxation within transit area. For the purposes of sections 473.405 to 473.449, and the metropolitan transit system, the metropolitan council shall levy upon all taxable property within the metropolitan transit area but outside of the metropolitan transit taxing district, defined in subdivision 2, a transit tax, which shall be equal to ten percent of the sum of the levies provided in subdivision 1, clauses (a) to (c). The proceeds of this tax shall be used only for paratransit services or ride sharing programs designed to serve persons located within the transit area but outside of the transit taxing district.

The regional transit board shall annually determine which cities and towns qualify for the 0.510 or 0.765 tax capacity rate reduction and certify this list to the county auditor on or before September 15. No changes shall be made to the list after September 15 of the same levy year.

[For text of subds 2 to 7, see M.S.1994]

Subd. 8. State review. The commissioner of revenue shall certify the council's levy limitation under this section to the council by August 1 of the levy year. The council must certify its proposed property tax levy under this section to the commissioner of revenue by September 1 of the levy year. The commissioner of revenue shall annually determine whether the property tax for transit purposes certified by the council for levy following the adoption of its proposed budget is within the levy limitation imposed by subdivision 1. The commissioner shall also annually determine whether the transit tax imposed on all taxable property within the metropolitan transit area but outside of the metropolitan transit taxing district is within the levy limitation imposed by subdivision 1a. The determination must be completed prior to September 10 of each year. If current information regarding market valuation in any county is not transmitted to the commissioner in a timely manner, the commissioner may estimate the current market valuation within that county for purposes of making the calculations.

History: 1995 c 186 s 119; 1995 c 236 s 15; 1995 c 264 art 16 s 19

473.448 COUNCIL; EXEMPTION FROM TAXATION.

Notwithstanding any other provision of law to the contrary, the properties, moneys, and other assets of the council used for transit operations or for special transportation services and all revenues or other income from the council's transit operations or special transportation services shall be exempt from all taxation, licenses, fees, or charges of any kind imposed

by the state or by any county, municipality, political subdivision, taxing district, or other public agency or body of the state.

History: 1995 c 236 s 16

473.449 ACT EXCLUSIVE.

The exercise by the council of the powers provided in sections 473.405 to 473.449 shall not be subject to regulation by or the jurisdiction or control of any other public body or agency, either state, county, or municipal, except as specifically provided in this chapter.

History: 1995 c 186 s 119

473.504 WASTE WATER SERVICES.

Subdivision 1. [Repealed, 1994 c 628 art 3 s 209]

Subd. 2. [Repealed, 1994 c 628 art 3 s 209]

Subd. 3. [Repealed, 1994 c 628 art 3 s 209]

Subd. 4. The council shall have the power to adopt rules relating to the operation of any interceptors or treatment works operated by it, and may provide penalties for the violation thereof not exceeding the maximum which may be specified for a misdemeanor. Any rule prescribing a penalty for violation shall be published at least once in a newspaper having general circulation in the metropolitan area.

Subd. 5. The council may accept gifts, may apply for and accept grants or loans of money or other property from the United States, the state, or any person for any of its purposes, including any grant available under the federal water pollution act amendments of 1972, whether for construction, research or pilot project implementation, may enter into any agreement required in connection therewith, and may hold, use, and dispose of such money or property in accordance with the terms of the gift, grant, loan or agreement relating thereto. The council has all powers necessary to comply with the federal water pollution control act amendments of 1972 and any grant offered to it thereunder including, but not limited to, the power to enter into such contracts with, or to impose such charges upon, persons using the metropolitan disposal system as it shall determine to be necessary for the recovery of treatment works and interceptor costs paid with federal grant funds. Insofar as possible these costs shall be recovered by local government units on behalf of the council.

Subd. 6. The council may act under the provisions of section 471.59, or any other appropriate law providing for joint or cooperative action between government units.

Subd. 7. [Repealed, 1994 c 628 art 3 s 209]

Subd. 8. [Repealed, 1994 c 628 art 3 s 209]

Subd. 9. The council may acquire by purchase, lease, condemnation, gift, or grant, any real or personal property including positive and negative easements and water and air rights, and it may construct, enlarge, improve, replace, repair, maintain, and operate any interceptor or treatment works determined to be necessary or convenient for the collection and disposal of sewage in the metropolitan area. Any local government unit and the commissioners of transportation and natural resources are authorized to convey to or permit the use of any such facilities owned or controlled by it by the council, subject to the rights of the holders of any bonds issued with respect thereto, with or without compensation, without an election or approval by any other government agency. All powers conferred by this subdivision may be exercised both within or without the metropolitan area as may be necessary for the exercise by the council of its powers or the accomplishment of its purposes. The council may hold such property for its purposes, and may lease any such property so far as not needed for its purposes, upon such terms and in such manner as it shall deem advisable. Unless otherwise provided, the right to acquire lands and property rights by condemnation shall be exercised in accordance with chapter 117, and shall apply to any property or interest therein owned by any local government unit; provided, that no such property devoted to an actual public use at the time, or held to be devoted to such use within a reasonable time, shall be so acquired unless a court of competent jurisdiction shall determine that the use proposed by the board is paramount to such use. Except in case of property in actual public use, the council may take possession of any property for which condemnation proceedings have been commenced at any time after the issuance of a court order appointing commissioners for its condemnation.

Subd. 10. The council may construct or maintain its systems or facilities in, along, on, under, over, or through public streets, bridges, viaducts, and other public rights of way without first obtaining a franchise from any local government unit having jurisdiction over them; but such facilities shall be constructed and maintained in accordance with the ordinances and resolutions of any such government unit relating to construction, installation, and maintenance of similar facilities in such public properties and shall not obstruct the public use of such rights-of-way.

Subd. 11. The council may sell or otherwise dispose of any real or personal property acquired by it which is no longer required for accomplishment of its purposes. Such property may be sold in the manner provided by section 469.065, insofar as practical. The council may give such notice of sale as it shall deem appropriate. When the council determines that any property or any interceptor or treatment works or any part thereof which has been acquired from a local government unit without compensation is no longer required, but is required as a local facility by the government unit from which it was acquired, the council may by resolution transfer it to such government unit.

Subd. 12. The council may contract with the United States or any agency thereof, any state or agency thereof, or any local government unit or governmental agency or subdivision, for the joint use of any facility owned by the council or such entity, for the operation by such entity of any system or facility of the council, or for the performance on the council's behalf of any service, on such terms as may be agreed upon by the contracting parties.

History: 1995 c 236 s 20

473.505 TOTAL WATERSHED MANAGEMENT.

The metropolitan council may enter into agreements with other governmental bodies and agencies and spend funds to implement total watershed management. "Total watershed management" means identifying and quantifying at a watershed level the (1) sources of pollution, both point and nonpoint, (2) causes of conditions that may or may not be a result of pollution, and (3) means of reducing pollution or alleviating adverse conditions. The purpose of total watershed management is to achieve the best water quality for waters of the state receiving the effluent of the metropolitan disposal system for the lowest total costs, without regard to who will incur those costs.

History: 1995 c 236 s 17

473.516 WASTE FACILITIES; SEWAGE SLUDGE DISPOSAL.

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

Subd. 2. **General requirements.** With respect to its activities under this section, the council shall be subject to and comply with the applicable provisions of this chapter. Property acquired by the council under this section shall be subject to the provisions of section 473.545. Any site or facility owned or operated for or by the council shall conform to the policy plan adopted under section 473.149. The council shall contract with private persons for the construction, maintenance, and operation of waste facilities, subject to the bidding requirements of section 473.523, where the facilities are adequate and available for use and competitive with other means of providing the same service.

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

History: 1995 c 247 art 2 s 26

473.521 PAYMENTS TO COUNCIL.

Subdivision 1. **Amounts due council, when payable.** Charges payable to the council by local government units may be made payable at such times during each year as the council determines, but such dates shall be fixed with reference to the dates on which tax, assessment, and revenue collections become available to the government units required to pay such charges.

Subd. 2. **Component municipalities, obligations to council.** Each government unit shall pay to the council all sums charged to it as provided in section 473.517, at the times and

in the manner determined by the council. The governing body of each such government unit shall take all action that may be necessary to provide the funds required for such payments and to make the same when due.

Subd. 3. Powers of government units. To accomplish any duty imposed on it by the council, the governing body of every government unit in the metropolitan area may exercise the powers granted any municipality by chapters 117, 412, 429, 475, sections 115.46, 444.075 and 471.59.

Subd. 4. Deficiency tax levies. If the governing body of any local government unit fails to meet any payment to the council hereunder when due, the metropolitan council may certify to the auditor of the county in which the government unit is located the amount required for payment of such amount with interest at six percent per annum. The auditor shall levy and extend such amount as a tax upon all taxable property in the government unit for the next calendar year, free from any existing limitations imposed by law or charter. Such tax shall be collected in the same manner as the general taxes of the government unit, and the proceeds thereof, when collected, shall be paid by the county treasurer to the treasurer of the council and credited to the government unit for which the tax was levied.

History: 1995 c 236 s 20

473.595 COMMISSION FINANCES.

[For text of subs 1 to 2, see M.S.1994]

Subd. 3. Budget preparation; review and approval. The commission shall prepare a proposed budget by August 1 of each year. The budget shall include operating revenues and expenditures for operation, administration, and maintenance. In addition, the budget must show for each year:

(a) The estimated operating revenues from all sources including funds on hand at the beginning of the year, and estimated expenditures for costs of operation, administration, maintenance, and debt service;

(b) Capital improvement funds estimated to be on hand at the beginning of the year and estimated to be received during the year from all sources and estimated cost of capital improvements to be paid out or expended during the year; all in such detail and form as the council may prescribe; and

(c) The estimated source and use of pass-through funds.

As early as practicable before August 15 of each year, the commission shall hold a public hearing on a draft of the proposed budget. Along with the draft, the commission shall publish a report on user charges. The report must include an estimate and analysis of the changes in user charges, rates, and fees that will be required by the commission's budget. Not less than 14 days before the hearing, the commission shall publish notice of the hearing in a newspaper having general circulation in the metropolitan area, stating the date, time, and place of hearing, and the place where the proposed budget and report on user charges may be examined by any interested person. Following the hearing, the commission shall publish a report of the hearing that summarizes the comments received and the commission's response. The council shall approve or disapprove the entire budget by October 1 of each year. Before December 15 of each year, the commission shall by resolution adopt a final budget. The commission shall file its final budget with the council on or before December 20 of each year. The council shall file the budgets with the secretary of the senate and the clerk of the house of representatives not later than January 1 of each year.

Except in an emergency, for which procedures must be established by the commission, the commission and its officers, agents, and employees may not spend money for any purpose, other than debt service, without an appropriation by the commission, and no obligation to make such an expenditure shall be enforceable except as the obligation of the person or persons incurring it. The creation of any debt obligation or the receipt of any federal or state grant is a sufficient appropriation of the proceeds for the purpose for which it is authorized, and of the tax or other revenues pledged to pay the obligation and interest on it whether or not specifically included in any annual budget. After obtaining approval of the council, the commission may amend the budget at any time by transferring any appropriation from one purpose to another, except appropriations of the proceeds of bonds issued for a specific purpose.

[For text of subs 4 to 7, see M.S.1994]

History: 1995 c 236 s 18

473.598 ARENA ACQUISITION.

[For text of subs 1 to 3, see M.S.1994]

Subd. 4. Treatment of data. (a) Except as specifically provided in this subdivision, all data received by the commission or council in the course of its negotiations and acquisition of the basketball and hockey arena is public data.

(b) The commission may keep confidential data received or prepared by its accountants or counsel for purposes of negotiations with existing or potential lessees of the basketball and hockey arena. That data shall be confidential data on individuals under section 13.02, subdivision 3, or protected nonpublic data under section 13.02, subdivision 13, as the case may be, unless the commission determines that public release of the data would advance the negotiations, or until the potential lessees have executed agreements with the commission or the negotiations are unfavorably concluded.

(c) The following data shall be private data on individuals under section 13.02, subdivision 12, or nonpublic data under section 13.02, subdivision 9, as the case may be:

(1) data received by the commission or council from the present lessees or potential lessees of the basketball and hockey arena which if made public would, due to the disclosure, permit a competitive economic advantage to other persons;

(2) data relating to affiliated entities of the parties referred to in subdivision 3 which is not relevant to the due diligence and economic feasibility study referred to under subdivision 3; and

(3) data on individuals which is not relevant to the finances of the basketball and hockey arena or useful to demonstrate the financial ability of the potential lessees of the arena to perform their agreements with the commission.

(d) For purposes of this subdivision, the terms "commission" and "council" include their members and employees, accountants, counsel, and consultants and the firm of independent certified public accountants to be engaged under subdivision 2.

(e) Notwithstanding the exceptions in this subdivision, summary data which demonstrates the financial ability of the lessees and potential lessees of the basketball and hockey arena to perform their obligations under agreements with the commission and data which relates in any way to the value of the basketball and hockey arena and the amount by which the owners' investment in the arena, including debt obligations, exceeds the commission's payments to and assumption of the owners' debt obligations, shall be public data.

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

History: 1995 c 186 s 88

473.599 DEBT OBLIGATIONS.

[For text of subs 1 to 7, see M.S.1994]

Subd. 8. Reimbursement to state. The commission shall compensate the state for its contribution from the general fund under section 240A.08, plus accrued interest, after payment of basketball and hockey arena debt service, the necessary and appropriate funding of debt reserve of the basketball and hockey arena and all expenses of operation, administration, and maintenance and the funding of a capital reserve for the repair, remodeling and renovation of the basketball and hockey arena. Compensation paid to the state shall occur at the same time that compensation is paid to the city of Minneapolis, as provided in paragraph (n) of subdivision 4, on a basis proportionate to the amount of forbearance of the entertainment tax or surcharge as provided in paragraph (n) to that date, and the amount of general fund appropriations paid by the state under section 240A.08 to that date. No reimbursement will be paid under this subdivision after (1) the aggregate amount of the appropriations granted under section 240A.08 to that time, plus accrued interest, has been reimbursed under this subdivision, or (2) December 31, 2024, whichever is earlier.

History: 1995 c 186 s 89

473.704 POWERS AND DUTIES.

[For text of subs 1 to 17, see M.S.1994]

Subd. 18. The commission may establish a research program to evaluate the effects of control programs on other fauna. The purpose of the program is to identify the types and magnitude of the adverse effects of the control program on fish and wildlife and associated food chain invertebrates. The commission may conduct research through contracts with qualified outside researchers. The commission may finance the research program each year at a level up to 2.5 percent of its annual budget, until December 31, 1995.

[For text of subs 19 and 20, see M.S.1994]

History: 1995 c 255 art 2 s 8

473.711 FINANCING.

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

Subd. 2. **Budget; tax levy.** (a) Budget. The metropolitan mosquito control commission shall prepare an annual budget. The budget may provide for expenditures in an amount not exceeding the property tax levy limitation determined in this subdivision.

(b) Tax Levy. The commission may levy a tax on all taxable property in the district as defined in section 473.702 to provide funds for the purposes of sections 473.701 to 473.716. The tax shall not exceed the property tax levy limitation determined in this subdivision. A participating county may agree to levy an additional tax to be used by the commission for the purposes of sections 473.701 to 473.716 but the sum of the county's and commission's taxes may not exceed the county's proportionate share of the property tax levy limitation determined under this subdivision based on the ratio of its total net tax capacity to the total net tax capacity of the entire district as adjusted by section 270.12, subdivision 3. The auditor of each county in the district shall add the amount of the levy made by the district to other taxes of the county for collection by the county treasurer with other taxes. When collected, the county treasurer shall make settlement of the tax with the district in the same manner as other taxes are distributed to political subdivisions. No county shall levy any tax for mosquito, disease vectoring tick, and black gnat (*Simuliidae*) control except under this section. The levy shall be in addition to other taxes authorized by law.

The property tax levied by the metropolitan mosquito control commission shall not exceed the following amount for the years specified:

(i) for taxes payable in 1996, the product of (1) the commission's property tax levy limitation for taxes payable in 1995 determined under this subdivision minus 50 percent of the amount actually levied for taxes payable in 1995, multiplied by (2) an index for market valuation changes equal to the total market valuation of all taxable property located within the district for the current taxes payable year divided by the total market valuation of all taxable property located within the district for the previous taxes payable year; and

(ii) for taxes payable in 1997 and subsequent years, the product of (1) the commission's property tax levy limitation for the previous year determined under this subdivision multiplied by (2) an index for market valuation changes equal to the total market valuation of all taxable property located within the district for the current taxes payable year divided by the total market valuation of all taxable property located within the district for the previous taxes payable year.

For the purpose of determining the commission's property tax levy limitation under this subdivision, "total market valuation" means the total market valuation of all taxable property within the district without valuation adjustments for fiscal disparities (chapter 473F), tax increment financing (sections 469.174 to 469.179), and high voltage transmission lines (section 273.425).

(c) Homestead and Agricultural Credit Aid. For aids payable in 1996 and subsequent years, the commission's homestead and agricultural credit aid base under section 273.1398, subdivision 1, is permanently reduced by 50 percent of the amount certified to be received in 1995, less any permanent aid reduction in 1995 under section 477A.0132.

(d) **Emergency Tax Levy.** If the commissioner of the department of health declares a health emergency due to a threatened or actual outbreak of disease caused by mosquitos, disease vectoring ticks, or black gnats (*Simuliidae*), the commission may levy an additional tax not to exceed \$500,000 on all taxable property in the district to pay for the required control measures.

(e) **Optional County Levy.** A participating county may levy a tax in an amount to be determined by the county board for mosquito, disease vectoring tick, and black gnat (*Simuliidae*) nuisance control. If the county levies the tax for nuisance control, it must contract with the commission to provide for nuisance control activities within the county. The levy for nuisance control shall be in addition to other levies authorized by law to the county.

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

History: 1995 c 255 art 2 s 9; 1995 c 264 art 16 s 20

473.801 DEFINITIONS.

Subdivision 1. **Terms.** For the purposes of sections 473.801 to 473.849, the terms defined in this section have the meanings given them.

[For text of subs 2 to 4, see M.S.1994]

Subd. 5. **Director.** "Director" means the director of the office of environmental assistance.

Subd. 6. **Office.** "Office" means the office of environmental assistance.

History: 1995 c 247 art 2 s 27-29

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 director shall provide information and technical assistance to the council, 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 a report for the previous fiscal year describing recycling rates, specified by the county in which the council, 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: 1995 c 247 art 2 s 30

473.803 METROPOLITAN COUNTY PLANNING.

Subdivision 1. **County master plans; general requirements.** Each metropolitan county, following adoption or revision of the metropolitan policy plan and in accordance with the dates specified therein, and after consultation with all affected local government units, shall prepare and submit to the director for approval, a county solid waste master plan to implement the policy plan. The master plan shall be revised and resubmitted at such times as the metropolitan policy plan may require. The master plan shall describe county solid waste activities, functions, and facilities; the existing system of solid waste generation, collection, and processing, and disposal within the county; proposed mechanisms for complying with the recycling requirements of section 115A.551, and the household hazardous waste management requirements of section 115A.96, subdivision 6; existing and proposed county and municipal ordinances and license and permit requirements relating to solid waste facilities and solid waste generation, collection, and processing, and disposal; existing or proposed municipal, county, or private solid waste facilities and collection services within the county together with schedules of existing rates and charges to users and statements as to the extent to which such facilities and services will or may be used to implement the policy

plan; and any solid waste facility which the county owns or plans to acquire, construct, or improve together with statements as to the planned method, estimated cost and time of acquisition, proposed procedures for operation and maintenance of each facility; an estimate of the annual cost of operation and maintenance of each facility; an estimate of the annual gross revenues which will be received from the operation of each facility; and a proposal for the use of each facility after it is no longer needed or usable as a waste facility. The master plan shall, to the extent practicable and consistent with the achievement of other public policies and purposes, encourage ownership and operation of solid waste facilities by private industry. For solid waste facilities owned or operated by public agencies or supported primarily by public funds or obligations issued by a public agency, the master plan shall contain criteria and standards to protect comparable private and public facilities already existing in the area from displacement unless the displacement is required in order to achieve the waste management objectives identified in the plan.

Subd. 1b. [Repealed, 1995 c 247 art 1 s 67]

Subd. 1c. **County abatement plan.** Each county shall revise its master plan to include a land disposal abatement element to implement the metropolitan land disposal abatement plan adopted under section 473.149, subdivision 2d, and shall submit the revised master plan to the director for review under subdivision 2 within nine months after the adoption of the metropolitan abatement plan. The county plan must implement the local abatement objectives for the county and cities within the county as stated in the metropolitan abatement plan. The county abatement plan must include specific and quantifiable county objectives, based on the objectives in the metropolitan abatement plan, for abating to the greatest feasible and prudent extent the need for and practice of land disposal of mixed municipal solid waste and of specific components of the solid waste stream generated in the county, stated in six-year increments for a period of at least 20 years from the date of metropolitan policy plan revisions. The plan must include measurable performance standards for local abatement of solid waste through resource recovery and waste reduction and separation programs and activities for the county as a whole and for statutory or home rule charter cities of the first, second, and third class, respectively, in the county, stated in six-year increments for a period of at least 20 years from the date of metropolitan policy plan revisions. The performance standards must implement the metropolitan and county abatement objectives. The plan must include standards and procedures to be used by the county in determining annually under subdivision 3 whether a city within the county has implemented the plan and has satisfied the performance standards for local abatement. The master plan revision required by this subdivision must be prepared in consultation with the advisory committee established pursuant to subdivision 4.

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

Subd. 1e. [Repealed, 1995 c 247 art 1 s 67]

Subd. 2. **Director review.** The director shall review each master plan or revision thereof to determine whether it is consistent with the metropolitan policy plan. If it is not consistent, the director 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 the director's approval. Any county solid waste plan or report approved by the council prior to July 1, 1994, shall remain in effect until a new master plan is submitted to and approved by the director in accordance with this section.

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

Subd. 2a. **Waste abatement.** The director may require any county that fails to meet the waste abatement objectives contained in the metropolitan policy plan to amend its master plan to address methods to achieve the objectives. The master plan amendment is subject to review and approval as provided in subdivision 2 and must consider at least:

- (1) minimum recycling service levels for solid waste generators;
- (2) mandatory generator participation in recycling programs including separation of recyclable material from mixed municipal solid waste;
- (3) use of organized solid waste collection under section 115A.94; and
- (4) waste abatement participation incentives including provision of storage bins, weekly collection of recyclable material, expansion of the types of recyclable material for collec-

tion, collection of recyclable material on the same day as collection of solid waste, and financial incentives such as basing charges to generators for waste collection services on the volume of waste generated and discounting collection charges for generators who separate recyclable material for collection separate from their solid waste.

Subd. 3. Annual report. By April 1 of each year, each metropolitan county shall prepare and submit to the director for approval a report containing information, as prescribed in the metropolitan policy plan, concerning solid waste generation and management within the county. The report shall include a statement of progress in achieving the land disposal abatement objectives for the county and classes of cities in the county as stated in the metropolitan policy plan and county master plan. The report must list cities that have not satisfied the county performance standards for local abatement required by subdivision 1c. The report must include a schedule of rates and charges in effect or proposed for the use of any solid waste facility owned or operated by or on its behalf, together with a statement of the basis for such charges.

The report shall contain the recycling development grant report required by section 473.8441 and the annual certification report required by section 473.848.

Subd. 4. Advisory committee. 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 solid waste advisory committee established under section 473.149, subdivision 4, who reside in the county are ex officio members of the county advisory committee. The director or the director's appointee is an ex officio member of the committee.

Subd. 5. Role of private sector; county oversight. A county may include in its solid waste management master plan and in its plan for county land disposal abatement a determination that the private sector will achieve, either in part or in whole, the goals and requirements of sections 473.149 and 473.803, as long as the county:

(1) retains active oversight over the efforts of the private sector and monitors performance to ensure compliance with the law and the goals and standards in the metropolitan policy plan and the county master plan;

(2) continues to meet its responsibilities under the law for ensuring proper waste management, including, at a minimum, enforcing waste management law, providing waste education, promoting waste reduction, and providing its residents the opportunity to recycle waste materials; and

(3) continues to provide all required reports on the county's progress in meeting the waste management goals and standards of this chapter and chapter 115A.

History: 1995 c 247 art 1 s 52-54; art 2 s 31-34

473.804 HOUSEHOLD HAZARDOUS WASTE MANAGEMENT.

By June 30, 1992, each metropolitan county shall develop and implement a permanent program to manage household hazardous waste. Each program must include at least quarterly collection of wastes. Each program must be consistent with the metropolitan policy plan and must be described as part of each county's solid waste master plan revision as required under section 473.803, subdivision 1.

History: 1995 c 247 art 2 s 35

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 and the approved county master plan, 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 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.

[For text of subs 2 to 4, see M.S.1994]

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 under section 473.149 and shall be consistent with approved county master plans. 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 director certifies need under section 473.823, subdivision 6. With the approval of the director, 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 director's decision under section 473.823, subdivision 5, except that, with the approval of the director, 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.1994]

Subd. 5. Ordinances; solid waste collection and transportation. (a) 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.

(b) 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.

(c) 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 or for enforcement of the prohibition on disposal of unprocessed mixed municipal solid waste under sections 473.848 and 473.849.

(d) A licensed collector or a metropolitan county or local government unit may request review by the director of an ordinance adopted under this subdivision. The director shall ap-

prove 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.

(e) Ordinances of counties and local units of government:

(1) shall provide for the enforcement of any designation of facilities by the counties under chapter 115A;

(2) may require waste collectors and transporters to deliver unprocessed mixed municipal solid waste generated in the county to processing facilities; and

(3) may prohibit waste collectors and transporters from delivering unprocessed mixed municipal solid waste generated in the county to disposal facilities for final disposal.

(f) Nothing in this subdivision limits the authority of the local government unit to regulate and license collectors of solid waste or to require review or approval by the director for ordinances regulating collection.

[For text of subs 5a and 5b, see M.S.1994]

Subd. 5c. County enforcement. Each metropolitan county shall be responsible for insuring that waste facilities, solid waste collection operations licensed or regulated by the county and hazardous waste generation and collection operations are brought into conformance with, or terminated and abandoned in accordance with, applicable county ordinances, rules and requirements of the state; and the policy plan. Counties may provide by ordinance that operators or owners or both of such facilities or operations shall be responsible to the county for satisfactorily performing the procedures required. If operators or owners or both fail to perform, the county may recover the costs incurred by the county in completing the procedures in a civil action in any court of competent jurisdiction or, in the discretion of the board, the costs may be certified to the county auditor as a special tax against the land. The ordinances may be enforced by action in district court or administrative penalty order authorized under section 116.072. The county may prescribe a criminal penalty for the violation of any ordinance enacted under this section not exceeding the maximum which may be specified for a misdemeanor.

[For text of subd 6, see M.S.1994]

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 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, 473.834, 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, 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 director for review and comment the terms on and the use for which the property will be disposed of. The agency and the director shall review and comment on the proposed disposition within 60 days after each has received the data relating thereto from the county.

[For text of subs 9 and 10, see M.S.1994]

History: 1995 c 186 s 90,91; 1995 c 247 art 1 s 55; art 2 s 36-40

473.813 CITIES, COUNTIES, TOWNS; SOLID WASTE CONTRACTS.

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

Subd. 2. Before a city, county, or town enters into any contract pursuant to subdivision 1 for a period of more than five years, the city, county, or town shall submit the proposed contract and a description of the proposed activities under the contract to the director for review and approval. The director shall approve the proposed contract if the director determines that the contract is consistent with the metropolitan policy plan, permits issued under section 473.823, and county reports or approved master plans. The director may consolidate the review of contracts submitted under this section with the review of related permit applications submitted under section 473.823 and for this purpose may delay the review required by this section.

History: 1995 c 247 art 2 s 41

473.823 RULES AND PERMITS.

Subd. 3. **Solid waste facilities; review procedures.** (a) The agency shall request applicants for solid waste facility permits to submit all information deemed relevant by the director for review, including without limitation information relating to the geographic areas and population served, the need, the effect on existing facilities and services, the effectiveness of proposed buffer areas to ensure, at a minimum, protection of surrounding land uses from adverse or incompatible impacts due to landfill operation and related activities, the anticipated public cost and benefit, the anticipated rates and charges, the manner of financing, the effect on metropolitan plans and development programs, the supply of waste, anticipated markets for any product, and alternative means of disposal or energy production.

(b) A permit may not be issued for the operation of a solid waste facility in the metropolitan area which is not in accordance with the metropolitan policy plan. The director shall determine whether a permit is in accordance with the policy plan. In making this determination, the director shall consider the areawide need and benefit of the applicant facility and the effectiveness of proposed buffer areas to adequately protect surrounding land uses in accordance with the policy plan, and may consider, without limitation, the effect of the applicant facility on existing and planned solid waste facilities.

(c) If the director determines that a permit is in accordance with the policy plan, the director shall approve the permit. If the director determines that a permit is not in accordance with the policy plan, the director shall disapprove the permit. Approval of permits may be subject to conditions the director determines are necessary to satisfy criteria and standards in the policy plan, including conditions respecting the type, character, and quantities of waste to be processed at a solid waste facility used primarily for resource recovery and the geographic territory from which a resource recovery facility or transfer station serving such a facility may draw its waste.

(d) For the purpose of this review and approval, the agency shall send a copy of each permit application and any supporting information furnished by the applicant to the director within 15 days after receipt of the application and all other information requested from the applicant. Within 60 days after the application and supporting information are received by the director, unless a time extension is authorized by the agency, the director shall issue to the agency in writing a determination whether the permit is disapproved, approved, or approved with conditions. If the director does not issue a determination to the agency within the 60-day period, unless a time extension is authorized by the agency, the permit shall be deemed to be in accordance with the policy plan.

(e) A permit may not be issued in the metropolitan area for a solid waste facility used primarily for resource recovery or a transfer station serving the facility, if the facility or station is owned or operated by a public agency or if the acquisition or betterment of the facility or station is secured by public funds or obligations issued by a public agency, unless the director finds and determines that adequate markets exist for the products recovered and that establishment of the facility is consistent with the criteria and standards in the metropolitan and county plans respecting the protection of existing resource recovery facilities and transfer stations serving such facilities.

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 director in accordance with the review process established by this subdivision. A county requesting review 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 metropolitan 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 director shall commence the review within 90 days of the submission of a request determined by the director to satisfy the requirements for review under this subdivision. Upon commencing the review the director shall establish a scope and procedure, including criteria, for the review and final decision on the proposed facility. The procedure shall require the director 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 director shall 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 director 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 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 scope, procedure, and criteria for review are available for review and where copies may be obtained.

(d) In the review and final decision on the proposed facility, the director 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 policy plan adopted pursuant to section 473.149; and

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

(e) The director may either approve or disapprove the proposed facility at the proposed site. The approval shall embody all terms, conditions, and requirements of the permitting state agencies, provided that the director may require more stringent permit terms, condi-

tions, and requirements respecting the design, construction, operation, inspection, monitoring, and maintenance of the proposed facility at the proposed site.

Subd. 6. 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 director indicating a determination that the additional disposal capacity planned for the facility is needed in the metropolitan area. The director shall amend the 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 metropolitan disposal abatement plan adopted pursuant to section 473.149, subdivision 2d, the 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 under section 473.803, subdivision 2, and that are consistent with the abatement plan and development schedule. The director 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: 1995 c 247 art 2 s 42-44

473.834 DEBT SERVICE; SOLID WASTE BONDS.

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

Subd. 2. Allocation of debt service. The annual debt service on the council's solid waste bonds, issued under Minnesota Statutes 1990, section 473.831, shall be annually apportioned and certified by the council to each county in the metropolitan area, in the proportion that the net tax capacity of all taxable property within each county bears to the net tax capacity of the taxable property in all the counties, except that the apportionment to each county shall first be adjusted to reflect exemptions from payment required by subdivision 1.

History: 1995 c 186 s 92

473.843 METROPOLITAN SOLID WASTE LANDFILL FEE.

Subdivision 1. Amount of fee; application. The operator of a mixed municipal solid waste disposal facility in the metropolitan area shall pay a fee on solid waste accepted and disposed at the facility as follows:

(a) A facility that weighs the waste that it accepts must pay a fee of \$6.66 per ton of waste accepted at the entrance of the facility.

(b) A facility that does not weigh the waste but that measures the volume of the waste that it accepts must pay a fee of \$2 per cubic yard of waste accepted at the entrance of the facility. This fee and the tipping fee must be calculated on the same basis.

(c) Waste residue, from recycling facilities at which recyclable materials are separated or processed for the purposes of recycling, or from energy and resource recovery facilities at which solid waste is processed for the purpose of extracting, reducing, converting to energy, or otherwise separating and preparing solid waste for reuse, is exempt from the fee imposed by this subdivision if there is at least an 85 percent weight reduction in the solid waste processed. To qualify for exemption under this clause, waste residue must be brought to a disposal facility separately. The commissioner of revenue, with the advice and assistance of the director and the agency, shall prescribe procedures for determining the amount of waste residue qualifying for exemption.

[For text of subs 2 to 6, see M.S.1994]

History: 1995 c 247 art 1 s 56

473.844 METROPOLITAN LANDFILL ABATEMENT FUND.

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

Subd. 1a. **Use of funds.** (a) The money in the account may be spent only for the following purposes:

- (1) assistance to any person for resource recovery projects funded under subdivision 4 or projects to develop and coordinate markets for reusable or recyclable waste materials, including related public education, planning, and technical assistance;
- (2) grants to counties under section 473.8441;
- (3) program administration;
- (4) public education on solid waste reduction and recycling;
- (5) solid waste research; and
- (6) grants to multicounty groups for regionwide planning for solid waste management system operations and use of management capacity.

(b) The director shall allocate at least 50 percent of the annual revenue received by the account for grants to counties under section 473.8441.

Subd. 4. **Resource recovery grants and loans.** The grant and loan program under this subdivision is administered by the director. Grants and loans may be made to any person for resource recovery projects. The grants and loans may include the cost of planning, acquisition of land and equipment, and capital improvements. Grants and loans for planning may not exceed 50 percent of the planning costs. Grants and loans for acquisition of land and equipment and for capital improvements may not exceed 50 percent of the cost of the project. Grants and loans may be made for public education on the need for the resource recovery projects. A grant or loan for land, equipment, or capital improvements may not be made until the director has determined the total estimated capital cost of the project and ascertained that full financing of the project is assured. Grants and loans made to cities, counties, or solid waste management districts must be for projects that are in conformance with approved master plans. A grant or loan to a city or town must be reviewed and approved by the county for conformance with the county master plan. The director shall require, where practical, cooperative purchase between cities, counties, and districts of capital equipment.

History: 1995 c 247 art 2 s 45,46

473.8441 LOCAL RECYCLING DEVELOPMENT PROGRAM.

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

Subd. 2. **Program.** The director shall encourage the development of permanent local recycling programs throughout the metropolitan area. The director shall make grants to qualifying metropolitan counties as provided in this section.

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

Subd. 4. **Grant conditions.** The director shall administer grants so that the following conditions are met:

- (a) A county must apply for a grant in the manner determined by the director. The application must describe the activities for which the grant will be used.
- (b) The activities funded must be consistent with the metropolitan policy plan and the county master plan.
- (c) A grant must be matched by equal county expenditures for the activities for which the grant is made.
- (d) All grant funds must be used for new activities or to enhance or increase the effectiveness of existing activities in the county.
- (e) Counties shall provide support to maintain effective municipal recycling where it is already established.

Subd. 5. **Grant allocation procedure.** (a) The director shall distribute the funds annually so that each qualifying county receives an equal share of 50 percent of the allocation to the program described in this section, plus a proportionate share of the remaining funds available for the program. A county's proportionate share is an amount that has the same proportion to the total remaining funds as the number of households in the county has to the total number of households in all metropolitan counties.

(b) To qualify for distribution of funds, a county, by April 1 of each year, must submit to the director for approval a report on expenditures and activities under the program during the preceding fiscal year and any proposed changes in its recycling implementation strategy or performance funding system. The report shall be included in the county report required by section 473.803, subdivision 3.

History: 1995 c 247 art 2 s 47-49

473.845 METROPOLITAN LANDFILL CONTINGENCY ACTION FUND.

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

Subd. 2. Water supply monitoring and health assessments. Money in the fund may be appropriated to the commissioner of health for water supply monitoring and health assessments. The commissioner shall monitor the quality of water in public water supply wells and may monitor private water supply wells in the metropolitan area that may be affected by their location in relation to a facility for mixed municipal solid waste. Testing under this subdivision must be for substances not funded under the Federal Safe Drinking Water Act. The health assessments must be conducted in areas that may be affected by contaminants from mixed municipal solid waste facilities.

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

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

[For text of subs 5 to 8, see M.S.1994]

History: 1995 c 220 s 124; 1995 c 247 art 2 s 50

473.846 REPORT TO LEGISLATURE.

The agency and the director shall submit to the senate finance committee, the house ways and means committee, and the legislative commission on waste management separate reports describing the activities for which money from the landfill abatement account and contingency action trust fund has been spent. The agency shall report by November 1 of each year on expenditures during its previous fiscal year. The director shall report on expenditures during the previous calendar year and must incorporate its report in the report required by section 115A.411, due July 1 of each odd-numbered year. The director shall make recommendations to the legislative commission on waste management on the future management and use of the metropolitan landfill abatement account.

History: 1995 c 247 art 1 s 57

473.848 RESTRICTION ON DISPOSAL.

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

Subd. 2. County certification; office approval. (a) By April 1 of each year, each county shall submit an annual certification report to the office detailing:

- (1) the quantity of waste generated in the county that was not processed prior to transfer to a disposal facility during the year 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.

The report shall be included in the county report required by section 473.803, subdivision 3.

(b) The office shall approve a county's certification 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 office 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 office does not approve two or more consecutive reports from any one county, the office 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 office.

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

Subd. 4. Office report. The office shall include, as part of its report to the legislative commission on waste management required under section 473.149, an accounting of the quantity of unprocessed waste transferred to disposal facilities, the reasons the waste was not processed, a strategy for reducing the amount of unprocessed waste, and progress made by counties to reduce the amount of unprocessed waste. The office may adopt standards for determining when waste is unprocessable and procedures for expediting certification and reporting of unprocessed waste.

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

History: 1995 c 247 art 2 s 51,52

473.858 COMPREHENSIVE PLANS; LOCAL GOVERNMENTAL UNITS.

Subdivision 1. Within three years following the receipt of the metropolitan system statement, every local governmental unit shall have prepared a comprehensive plan in accordance with sections 462.355, subdivision 4, 473.175, and 473.851 to 473.871 and the applicable planning statute and shall have submitted the plan to the metropolitan council for review pursuant to section 473.175. The provisions of sections 462.355, subdivision 4, 473.175, and 473.851 to 473.871 shall supersede the provisions of the applicable planning statute wherever a conflict may exist. If the comprehensive municipal plan is in conflict with the zoning ordinance, the zoning ordinance shall be brought into conformance with the plan by local government units in conjunction with the review and, if necessary, amendment of its comprehensive plan required under section 473.864, subdivision 2. After August 1, 1995, a local government unit shall not adopt any fiscal device or official control which is in conflict with its comprehensive plan, including any amendments to the plan, or which permits activity in conflict with metropolitan system plans, as defined by section 473.852, subdivision 8. The comprehensive plan shall provide guidelines for the timing and sequence of the adoption of official controls to ensure planned, orderly, and staged development and redevelopment consistent with the comprehensive plan. For purposes of this section, a fiscal device or official control shall not be considered to be in conflict with a local government unit's comprehensive plan or to permit an activity in conflict with metropolitan system plans if such fiscal device or official control is adopted to ensure the planned, orderly, and staged development of urbanization or redevelopment areas designated in the comprehensive plan pursuant to section 473.859, subdivision 5.

[For text of subds 2 to 4, see M.S.1994]

History: 1995 c 176 s 5

473.859 COMPREHENSIVE PLAN CONTENT.

Subdivision 1. **Contents.** The comprehensive plan shall contain objectives, policies, standards and programs to guide public and private land use, development, redevelopment and preservation for all lands and waters within the jurisdiction of the local governmental unit through 1990 and may extend through any year thereafter which is evenly divisible by five. Each plan shall specify expected industrial and commercial development, planned population distribution, and local public facility capacities upon which the plan is based. Each plan shall contain a discussion of the use of the public facilities specified in the metropolitan system statement and the effect of the plan on adjacent local governmental units and affected school districts. Existing plans and official controls may be used in whole or in part following

modification, as necessary, to satisfy the requirements of sections 462.355, subdivision 4, 473.175, and 473.851 to 473.871. Each plan may contain an intergovernmental coordination element that describes how its planned land uses and urban services affect other communities, adjacent local government units, the region, and the state, and that includes guidelines for joint planning and decision making with other communities, school districts, and other jurisdictions for siting public schools, building public facilities, and sharing public services.

Each plan may contain an economic development element that identifies types of mixed use development, expansion facilities for businesses, and methods for developing a balanced and stable economic base.

The comprehensive plan may contain any additional matter which may be included in a comprehensive plan of the local governmental unit pursuant to the applicable planning statute.

Subd. 2. Land use plan. A land use plan shall include the water management plan required by section 103B.235, and shall designate the existing and proposed location, intensity and extent of use of land and water, including lakes, wetlands, rivers, streams, natural drainage courses, and adjoining land areas that affect water natural resources, for agricultural, residential, commercial, industrial and other public and private purposes, or any combination of such purposes. A land use plan shall contain a protection element, as appropriate, for historic sites, the matters listed in the water management plan required by section 103B.235, and the matters listed in section 473.204, and an element for protection and development of access to direct sunlight for solar energy systems. A land use plan shall also include a housing element containing standards, plans and programs for providing adequate housing opportunities to meet existing and projected local and regional housing needs, including but not limited to the use of official controls and land use planning to promote the availability of land for the development of low and moderate income housing.

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

Subd. 5. Urbanization and redevelopment areas. The comprehensive plans may designate, when appropriate, five year urbanization areas and shall specify in the capital improvement program the timing and sequence of major local public facilities and in the implementation program official controls which will ensure that urbanization occurs only in urbanization areas and in accordance with the plan.

The comprehensive plans may designate, when appropriate, redevelopment areas and may, as appropriate, specify in the capital improvement program the timing and sequence of local public facilities and in the implementation program the fiscal devices or official controls that will ensure that redevelopment occurs in accordance with the plan.

[For text of subd 6, see M.S.1994]

History: 1995 c 176 s 6–8

473.864 PLANS AND PROGRAMS; ADOPTION; AMENDMENT.

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

Subd. 2. By December 31, 1998, and at least once every ten years thereafter, each local governmental unit shall review and, if necessary, amend its entire comprehensive plan and its fiscal devices and official controls. Such review and, if necessary, amendment shall ensure that, as provided in section 473.865, the fiscal devices and official controls of each local government unit are not in conflict with its comprehensive plan. Upon completion of review and, if necessary, amendment of its comprehensive plan, fiscal devices, and official controls as required by this section, each local government unit shall either:

(a) submit to the metropolitan council the entire current comprehensive plan together with written certification by the governing body of the local government unit that it has complied with this section and that no amendments to its plan or fiscal devices or official controls are necessary; or

(b)(1) submit the entire updated comprehensive plan and amendment or amendments to its comprehensive plan necessitated by its review to the metropolitan council for review; and

(2) submit the amendment or amendments to its fiscal devices or official controls necessitated by its review to the metropolitan council for information purposes as provided by section 473.865.

Except as otherwise provided in this paragraph, local governments shall consider, in preparing their updated comprehensive plans, amendments to metropolitan system plans in effect on December 31, 1996. For metropolitan system plans, or amendments thereto, adopted after December 31, 1996, local governments shall review their comprehensive plans to determine if an amendment is necessary to conform to the metropolitan system plans. If an amendment is necessary, the local government shall prepare the amendment and submit it to the council for review by September 30, 1999, or nine months after the council transmits the metropolitan system plan amendment to the local government, whichever is later.

The periodic review required in this subdivision shall be in addition to the review required by section 473.856.

The metropolitan council may grant extensions to local government units in order to allow local government units to complete the review and, if necessary, amendment required by this subdivision. Such extensions, if granted by the metropolitan council, must include a timetable and plan for completion of the review and amendment.

Amendments to comprehensive plans of local governmental units and to capital improvement programs of school districts shall be prepared, submitted, and adopted in conformance with guidelines adopted by the metropolitan council pursuant to section 473.854.

History: 1995 c 176 s 9

473.867 PLANNING ASSISTANCE; GRANTS; LOANS.

[For text of subs 1 to 5, see M.S.1994]

Subd. 6. Assistance for plan updates. The council shall give priority for the use of loan and grant funds available under this section to local governmental units for review and amendment of local comprehensive plans and fiscal devices and official controls, as required by section 473.864, subdivision 2. The council shall consult with affected local government units to evaluate the need for technical and financial assistance.

History: 1995 c 176 s 10

PUBLIC SAFETY RADIO COMMUNICATION SYSTEM

473.891 DEFINITIONS.

Subdivision 1. Applications. The definitions in this section apply to sections 473.891 to 473.905.

Subd. 2. Board. "Board" or "radio board" means the metropolitan radio board.

Subd. 3. First phase. "First phase" or "first phase of the regionwide public safety radio communications system" means the initial backbone which serves state and regional agencies.

Subd. 4. Local elected officials. "Local elected officials" means any elected official of a local government.

Subd. 5. Local government. "Local government" means any county, home rule charter or statutory city, or town, lying in whole or in part within the metropolitan area.

Subd. 6. NPSPAC channels. "NPSPAC channels" or "National Public Safety Planning Advisory Committee channels" means the following 800 megahertz channels: 821 to 824 and 866 to 869 megahertz.

Subd. 7. Plan. "Plan" or "regionwide public safety radio system communication plan" means the plan adopted by the metropolitan radio board for a regionwide public safety radio communications system.

Subd. 8. Subsystems. "Subsystems" or "public safety radio subsystems" means systems identified in the plan as subsystems interconnected by the first phase backbone in subsequent phases and operated by local government units for their own internal operations.

Subd. 9. System; backbone system. "System" or "backbone system" means a region-wide public safety radio communication system that consists of a shared regionwide infrastructure network, the elements of which are identified in the regionwide public safety radio communications system plan, and subsystems interconnected by the shared regionwide network.

History: 1995 c 195 art 1 s 2

473.893 BOARD; MEMBERSHIP, ADMINISTRATION.

Subdivision 1. General. The metropolitan radio board is established as a political subdivision. The board shall be organized, structured, and administered as provided in this section. Until funds to administer the board become available under section 473.894, subdivision 19, the metropolitan council shall provide office space and administrative support to the board at no cost.

Subd. 2. Membership. The board consists of 17 members. Fifteen members shall be local officials and shall include:

(1) one county commissioner appointed by each respective county board from each of the seven metropolitan counties;

(2) an elected official from each of the cities of Minneapolis, St. Paul, and Bloomington appointed by each respective city governing body;

(3) two elected officials from other metropolitan cities appointed by the governor, who shall consider recommendations made by the Association of Metropolitan Municipalities when making these appointments;

(4) an elected official from a county or a city within a county in Minnesota that is contiguous to the metropolitan area appointed by the governor, who shall consider recommendations made by the League of Minnesota Cities when making this appointment;

(5) a sheriff appointed by the governor, who shall consider recommendations made by the metropolitan sheriffs association when making this appointment; and

(6) a police chief appointed by the governor, who shall consider recommendations made by the Minnesota police chiefs association when making this appointment.

The 16th member shall be a member of the metropolitan council appointed by the council. The 17th member shall be the director of electronic communications of the Minnesota department of transportation. As provided in section 473.894, subdivision 20, the chair of the technical operations committee serves as an ex officio member of the board.

The members shall be appointed within 30 days of the effective date of Laws 1995, chapter 195. Upon the effective date of Laws 1995, chapter 195, the metropolitan council shall inform the entities listed in this subdivision of the appointments required by this subdivision and shall provide whatever assistance is necessary to facilitate the appointment process and establish the radio board.

Board members have no set term and remain on the board until a successor is appointed as provided by this subdivision. However, with respect to those board members who, under this subdivision, must be elected officials, a successor must be appointed as provided by this subdivision no later than the date that a member is no longer an elected official, unless the member dies while in office, in which case a successor must be named as soon as practicable.

Subd. 3. Officers. The officers of the board are: chair; vice-chair; secretary; and treasurer. The chair shall preside at all meetings of the board, and in the chair's absence, the vice-chair shall preside. The secretary shall keep a complete record of the minutes of each meeting. The treasurer shall keep the financial records of the board. The chair and vice-chair of the board shall be selected by a majority vote from the members of the board. The secretary and treasurer need not be members of the board.

Subd. 4. Contracts. Contracts and other written instruments of the board shall be signed by the chair or vice-chair and if the board has an executive director, by the executive director of the board pursuant to authority from the board.

Subd. 5. Bylaws. The board shall conduct its business in accordance with bylaws duly adopted by a majority of the board.

Subd. 6. Voting. Each member has one vote. The majority of the voting power of the board constitutes a quorum although a smaller number may adjourn from time to time. Any

motion, other than adjournment, shall be favored by a majority of the voting power of the board in order to carry.

History: 1995 c 195 art 1 s 3

473.894 POWERS OF THE BOARD.

Subdivision 1. General. The board has the powers necessary and convenient to discharge the duties imposed on it by law, including those listed in this section.

Subd. 2. Planning. The board shall review and, within 90 days of the effective date of Laws 1995, chapter 195, adopt the regionwide public safety radio system communication plan prepared by the metropolitan radio systems planning committee pursuant to Laws 1993, chapter 313, section 3, subdivision 2, for using the 800 megahertz and other frequencies available for public safety use. The plan must include, at a minimum:

(1) a system design recommended by the Minnesota commissioner of transportation for the first phase consisting of a shared regionwide infrastructure network;

(2) a system design for subsequent phases; and

(3) a plan for assignment of frequencies to the regional network and to each subsystem.

No later than 30 days prior to adoption of the plan by the board, the board shall submit the plan to the metropolitan council for review in accordance with section 473.165, clause (1). The council may make comments to the board about the plan in accordance with section 473.165, clause (2), except that the deadline for comments shall be made within 30 days after submission of the plan to the council.

If, within the 30-day review period, the council has made no comment on the plan or has made no findings as provided in section 473.165, clause (2), the plan shall go into effect as of the date of adoption by the board.

If, within the 30-day review period, the council has made findings as provided in section 473.165, clause (2), the board and the council shall follow the procedure provided in section 473.165, clause (2). The board may adopt revisions to the plan in the same manner as is provided in this subdivision for adoption of the plan.

Subd. 3. Application to FCC. Within 180 days from adoption of the regionwide public safety radio system communication plan the commissioner of transportation, on behalf of the state of Minnesota, shall use the plan adopted by the board under subdivision 2 to submit an extended implementation application to the Federal Communications Commission (FCC) for the NPSPAC channels and other public safety frequencies available for use in the metropolitan area and necessary to implement the plan. Local governments and all other public or private entities eligible under part 90 of the FCC rules shall not apply for public safety channels in the 821 to 824 and 866 to 869 megahertz bands for use within the metropolitan counties until the FCC takes final action on the regional application submitted under this section. Exceptions to the restrictions on the application for the NPSPAC channels may be granted by the radio board. The Minnesota department of transportation shall hold the master system licenses for all public safety frequencies assigned to the metropolitan area issued by the FCC under the board's plan and these channels shall be used for the implementation of the plan. Local governments and other public and private entities eligible under part 90 of the FCC rules may apply to the FCC as colicensees for subscriber equipment and those portions of the network infrastructure owned by them. Application for colicensing under this section shall require the concurrence of the radio board.

Subd. 4. Plan implementation. The board shall supervise the implementation of the regionwide public safety radio system communication plan adopted under subdivision 2 and must ensure that the system is built, owned, operated, and maintained in accordance with the plan. The board will work with the region 22 NPSPAC committee to incorporate the board's adopted plan into federal communication system regulations.

Subd. 5. Required minimum level of service for local governments. Subject to system capacity and channel availability, the board shall ensure that all local governments, quasi-public service operations, and private entities in the metropolitan counties that are eligible to use radio frequencies reserved for public safety use have adequate communications capacity and intercommunications capability.

Subd. 6. Backbone and subsystems. In the regionwide public safety radio system communication plan, the board shall define the backbone consistent with the recommendations made by the commissioner of transportation and the subsystems of the system, the timing and phasing of system development, the geographic scope of the system, the timing and extent of participation in the system including participation by additional entities, and standards for system performance. System performance standards shall be developed in consultation with the commissioner of transportation. The initial backbone shall serve state and regional agencies and shall include capabilities for regionwide mutual aid and emergency medical services communications and potentially provide alternative routing for 911 services.

Subd. 7. Existing channel allocation. The board shall coordinate allocation of existing radio channels made available to the board by conversion to 800 megahertz or other public safety frequencies.

Subd. 8. Cost apportionment. The board shall determine how capital, operating, and administrative costs of the first phase system will be spread across users of the regionwide public safety radio communication system, including costs for additional participants.

Subd. 9. Excess capacity allocation. The board shall determine how excess capacity provided in the initial system design in the regionwide public safety radio communication system will be allocated.

Subd. 10. System enhancement regulation. The board shall determine the extent to which local governments, quasi-public service corporations, and private entities eligible to use the system may provide system enhancements at their own direct expense.

Subd. 11. Performance standards. The board shall set performance standards for operation of the backbone and subsystems and may modify standards as necessary to meet changing needs.

Subd. 12. Use priorities. The board shall establish priorities or protocols for use of the system.

Subd. 13. First phase construction. In order to implement the first phase backbone, the board shall contract with the state of Minnesota, through the commissioner of transportation for construction, ownership, operation, maintenance, and enhancement of these elements of the first phase backbone as defined in the plan. The commissioner, under appropriate state law, shall contract for, or procure by purchase or lease, (including joint purchase and lease agreements), construction, installation of materials, supplies and equipment, and other services as may be needed to build, operate, and maintain the first phase system network. In accordance with the terms of the contract entered into with the radio board under this subdivision, the department of transportation will own, operate, and maintain those elements identified by the radio board in the plan as the first phase. The state will finance and pay for its share of the first phase.

Subd. 14. Executive director. The board may employ and fix the duties and compensation of an executive director who shall supervise the implementation of the plan including the design, ownership, construction, and operation of the first phase system and shall administer the business affairs of the board. The executive director is eligible for membership in the Minnesota state retirement system. Until funds to administer the board become available under subdivision 19, the metropolitan council shall provide to the board an executive director who will be a staff member of the council. The executive director shall serve at the pleasure of the board.

Subd. 15. System use by nongovernmental entities. The board may contract with entities in the metropolitan counties eligible to use the public safety channels other than local governments, to provide them with public safety radio communication service. The board may contract with eligible jurisdictions and entities outside the metropolitan counties for inclusion in the regionwide public safety radio communication system.

Subd. 16. Minutes of board meetings. The board shall keep proper minutes of all its proceedings which shall be open to public inspection at all reasonable times.

Subd. 17. Accounting. The board shall keep proper and adequate books of accounts showing all its receipts and disbursements by date, source, and amount. The board must be audited at least once each year. The board may elect to be audited by a certified public accountant or by the state auditor.

Subd. 18. **Insurance.** The board may obtain suitable, proper, and adequate public liability and workers' compensation insurance and other insurance as it deems necessary, including but not limited to, insurance 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.

Subd. 19. **User fees.** In accordance with the plan authorized in subdivision 2, the board may establish and impose user fees on entities using the first phase system to cover the board's costs of implementing the plan and the costs of operating the first phase system in the metropolitan area. The metropolitan council will collect the user fees.

Subd. 20. **Technical operations committee.** The board shall establish a technical operations committee composed of representatives of the following functional categories to advise it in carrying out its purposes:

- (1) Minnesota department of public safety;
- (2) Minnesota department of transportation;
- (3) sheriffs;
- (4) police;
- (5) fire protection;
- (6) emergency medical service;
- (7) public works;
- (8) civil defense;
- (9) metro 911 telephone board;
- (10) entities using 800 megahertz prior to initiation of the regional system;
- (11) managers or purchasing agents possessing expertise from a general perspective;
- (12) representatives of local units of government; and
- (13) regionwide public safety radio communication system users.

The members of the technical operations committee serve without compensation. The chair of the technical operations committee is an ex officio member of the radio board.

Subd. 21. **Contracts.** The board may enter into contracts necessary to carry out its responsibilities.

Subd. 22. **Property.** The board may acquire by purchase, lease, gift, or grant, property, both real and personal, and interests in property necessary for the accomplishment of its purposes and may sell or otherwise dispose of property which it no longer requires.

Subd. 23. **Gifts; grants.** The board may apply for, accept, and disburse gifts, grants, or loans from the United States, the state, or from any person for any of its purposes. It may enter into an agreement required for the gifts, grants, or loans and may hold, use, and dispose of money or property received according to the terms of the gift, grant, or loan.

Subd. 24. **Authority to litigate.** The board may sue and be sued.

History: 1995 c 195 art 1 s 4

473.895 ADVERSE INTERESTS OF BOARD MEMBERS.

As provided in section 471.87, no member of the board shall have any personal or financial interest in any sale, lease, or other contract made by the board. Any violation of section 471.87 may make the sale, lease, or other contract voidable by the board. Upon conviction for a violation of section 471.87, a board member is automatically disqualified from further service on the board.

History: 1995 c 195 art 1 s 5

473.896 COMPENSATION OF BOARD MEMBERS.

Subdivision 1. **Per diem and expenses.** Except as provided in subdivision 2, and unless otherwise prohibited by law, each board member of the radio board shall be reimbursed for actual and necessary expenses incurred in the performance of duties. The chair shall be paid a per diem in the same amount as is provided in section 15.0575, subdivision 3, for attending

meetings, monthly, executive, and special, and board members shall be paid a per diem in the same amount as is provided in section 15.0575, subdivision 3, for attending meetings, monthly, executive, and special. A board member who receives a per diem from the board member's county or city shall not be paid a per diem for the same day by the board for attending meetings of the board. The annual budget of the board shall provide, as a separate account, anticipated expenditures for per diem, travel, and associated expenses for the chair and members, and compensation or reimbursement shall be made to the chair or members only when budgeted.

Subd. 2. Limitation. A board member whose annual public salary is \$25,000 or more shall only be reimbursed for expenses related to travel.

History: 1995 c 195 art 1 s 6

473.897 FINANCE.

Subdivision 1. Budget preparation; review and approval. The board shall prepare a proposed budget by August 1 of each year. The budget shall include operating revenues and expenditures for operation, administration, and maintenance. In addition, the budget must show for each fiscal year of the state biennium:

(1) the estimated operating revenues from all sources including funds on hand at the beginning of the year, and estimated expenditures for costs of operation, administration, maintenance, and debt service;

(2) capital improvement funds estimated to be on hand at the beginning of the year and estimated to be received during the year from all sources and estimated cost of capital improvements to be paid out or expended during the year, all in such detail and form as the council may prescribe; and

(3) the estimated source and use of pass-through funds.

As early as practicable before August 15 of each year, the board shall hold a public hearing on a draft of the proposed budget. Along with the draft, the board shall publish a report on user charges. The report must include an estimated analysis of the changes in user charges, rates, and fees that will be required by the board's budget. Not less than 14 days before the hearing, the board shall publish notice of the hearing in a newspaper having general circulation in the metropolitan area, stating the date, time, and place of hearing, and the place where the proposed budget and report on user charges may be examined by any interested person.

Following the hearing, the board shall publish a report of the hearing that summarizes the comments received and board's response. The council shall approve or disapprove the entire budget by October 1 of each year. The council may disapprove only if the budget does not have adequate reserves to meet debt service. If the council disapproves the budget in accordance with this subdivision, the board shall, by November 1, resubmit to the council for approval, a budget which meets the requirements for council approval as provided in this subdivision. The council shall approve or disapprove the entire resubmitted budget by December 1.

Before December 15 of each year, the board shall, by resolution, adopt a final budget. The board shall file its final budget with the council on or before December 20 of each year. The council shall file the budgets with the secretary of the senate and the clerk of the house of representatives not later than January 1 of each year. Before adoption, the board must submit any budget amendment which would affect debt service reserves to the council for review. The council has 15 days to approve or disapprove the amendment. The council shall disapprove the budget amendment only if the budget does not have adequate reserves to meet debt service.

Except in an emergency, for which procedures must be established by the board, the board and its officers, agents, and employees may not spend money for any purpose, other than debt service, without an appropriation by the board, and no obligation to make such an expenditure shall be enforceable except as the obligation of the person or persons incurring it. The creation of any debt obligation or the receipt of any federal or state grant is a sufficient appropriation of the proceeds for the purpose for which it is authorized, and of the tax or other revenues pledged to pay the obligation and interest on it whether or not specifically included in any annual budget. After obtaining the approval of the council, the board may amend the

budget at any time by transferring any appropriation from one purpose to another, except appropriations of the proceeds of bonds issued for a specific purpose. The council shall disapprove only if the amended budget does not have adequate reserves to meet debt service.

Subd. 2. Program evaluation. The budget procedure of the board must include a substantive assessment and evaluation of the effectiveness of each significant part of the region-wide public safety radio communication system implementation plan adopted by the board with, to the extent possible, quantitative information on the status, progress, costs, benefits, and effects of each program.

The board shall transmit the evaluation to the metropolitan council annually.

Subd. 3. Council report to legislature. Biennially the council shall submit a report to the legislature detailing the board's activities and finances for the previous year, the extent to which the system has been expanded beyond the metropolitan area, and the appropriateness of transferring responsibility for the metropolitan radio board to a state agency.

Subd. 4. Resale of services or capacity prohibited. Neither the council, the board, or any local government unit may resell any service or capacity of this system to a nonpublic entity, except for those private entities eligible to hold Federal Communications Commission licenses in the public safety and special emergency radio services, as defined in the Code of Federal Regulations, title 47, part 90 (1994).

History: 1995 c 195 art 1 s 7

473.898 REVENUE BONDS; OBLIGATIONS.

Subdivision 1. Authorization. The council, if requested by a vote of at least two-thirds of all of the members of the metropolitan radio board may, by resolution, authorize the issuance of its revenue bonds for any of the following purposes to:

(1) provide funds for regionwide mutual aid and emergency medical services communications;

(2) provide funds for the elements of the first phase of the regionwide public safety radio communications system that the board determines are of regionwide benefit and support mutual aid and emergency medical services communication including, but not limited to, costs of master controllers of the backbone; or

(3) refund bonds issued under this section.

Subd. 2. Procedure. The bonds shall be sold, issued, and secured in the manner provided in chapter 475 for bonds payable solely from revenues, except as otherwise provided in sections 473.891 to 473.905 and the council shall have the same powers and duties as a municipality and its governing body in issuing bonds under chapter 475. The bonds may be sold at any price and at public or private sale as determined by the council.

The bonds shall be payable from and secured by a pledge of the emergency telephone service fee provided in chapter 403 and shall not represent or constitute a general obligation or debt of the council and shall not be included in the net debt of any city, county, or other subdivision of the state for the purpose of any debt limitation.

Subd. 3. Limitations. The principal amount of the bonds issued pursuant to subdivision 1, exclusive of any original issue discount, shall not exceed the amount of \$10,000,000 plus the amount the council determines necessary to pay the costs of issuance, fund reserves, debt service, and pay for any bond insurance or other credit enhancement.

Subd. 4. Security. The bonds may be secured by a bond resolution or a trust indenture entered into by the council with a corporate trustee within or outside the state which shall define the fee pledged for the payment and security of the bonds and for payment of all necessary and reasonable debt service expenses until all the bonds referred to in subdivision 1 are fully paid or discharged in accordance with law. The pledge shall be a valid charge on the emergency telephone service fee provided in chapter 403. No mortgage of or security interest in any tangible real or personal property shall be granted to the bondholders or the trustee, but they shall have a valid security interest in the revenues and bond proceeds received by the council and pledged to the payment of the bonds as against the claims of all persons in tort, contract, or otherwise, irrespective of whether the parties have notice and without possession or filing as provided in the Uniform Commercial Code, or any other law, subject however to the rights of the holders of any general obligation bonds issued under section 473.903. In the

bond resolution or trust indenture, the council may make covenants as it determines to be reasonable for the protection of the bondholders.

Neither the council, nor any council member, officer, employee, or agent of the council, nor any person executing the bonds shall be liable personally on the bonds by reason of their issuance. The bonds are not payable from, and are not a charge upon, any funds other than the revenues and bond proceeds pledged to their payment. The council is not subject to any liability on the bonds and has no power to obligate itself to pay or to pay the bonds from funds other than the revenues and bond proceeds pledged. No holder of bonds has the right to compel any exercise of the taxing power of the council, except any deficiency tax levy the council covenants to certify under section 473.902, or any other public body, to the payment of principal of or interest on the bonds. No holder of bonds has the right to enforce payment of principal or interest against any property of the council or other public body other than that expressly pledged for the payment of the bonds.

History: 1995 c 195 art 1 s 8

473.899 DEPOSITORIES.

The metropolitan council shall, from time to time, designate one or more national or state banks, or trust companies authorized to do banking business, as official depositories for money of the board and shall require the board's treasurer to deposit all or a part of such money in those institutions. The designation shall be in writing and shall set forth all the terms and conditions upon which the deposits are made and shall be signed by the chair and treasurer and made a part of the minutes of the board. Any bank or trust company designated shall qualify as a depository by furnishing a corporate surety bond or collateral in the amounts required by section 118.01. No bond or collateral shall be required to secure any deposit insofar as it is insured under federal law.

History: 1995 c 195 art 1 s 9

473.900 MONEY; ACCOUNTS; INVESTMENTS.

Subdivision 1. Treasurer's duties. All money received by the metropolitan council under section 473.894, subdivision 19, shall be deposited or invested by the board's treasurer and disposed of as the board may direct in accordance with its budget, provided that any money that has been pledged or dedicated by the metropolitan council to the payment of obligations or interest on them or expenses incident to them, or for any other specific purpose authorized by law, shall be paid by the board's treasurer into the fund to which they have been pledged.

Subd. 2. Funds and accounts established. The metropolitan council shall establish funds and accounts as may be necessary or convenient to handle the receipts and disbursements of the board in an orderly fashion.

Subd. 3. Depositories; investments. The money on hand in the funds and accounts may be deposited in the official depositories of the metropolitan council or invested as provided in this subdivision. The amount not currently needed or required by law to be kept in cash on deposit, may be invested in obligations authorized for the investment of municipal sinking funds by section 475.66. The money may also be held under certificates of deposit issued by any official depository of the metropolitan council.

Subd. 4. Use of bond proceeds. The use of proceeds of all bonds issued by the metropolitan council for the purposes enumerated in section 473.898, subdivision 1, other than investment of all money on hand in any sinking fund or funds of the council, shall be governed by the provisions of chapter 475, the provisions of resolutions authorizing the issuance of the bonds, and by the trust indenture.

History: 1995 c 195 art 1 s 10

473.901 USE OF EMERGENCY TELEPHONE SERVICE FEE; BUDGETS; APPROPRIATION TRANSFERS; AUDITS.

Subdivision 1. Costs covered by fee. Beginning July 1, 1995, the following costs shall be paid from money appropriated to the commissioner of administration for those costs from the 911 emergency telephone service account established under section 403.11:

- (1) debt service costs and reserves for bonds issued pursuant to section 473.898;
- (2) repayment of the right-of-way acquisition loans;
- (3) costs of design, construction, maintenance of, and improvements to those elements of the first phase that support mutual aid communications and emergency medical services; or
- (4) recurring charges for leased sites and equipment for those elements of the first phase that support actual aid and emergency medical communication services.

Money appropriated from the 911 emergency telephone service fee account shall be used to pay annual debt service costs and reserves for bonds issued pursuant to section 473.898 prior to use of fee money to pay other costs eligible under this subdivision. In no event shall the money appropriated from the 911 emergency telephone service fee account for the first phase radio system exceed an amount equal to four cents a month for each customer access line or other basic access service, including trunk equivalents as designated by the public utilities commission for access charge purposes and including cellular and other nonwire access services.

Subd. 2. Annual budget of radio board. The metropolitan council shall transmit the annual budget of the radio board to the commissioner of administration no later than December 15 of each year. The commissioner of administration shall include eligible costs for the regionwide public safety communication system in its request for legislative appropriations from the 911 emergency telephone service fee account. All eligible costs approved by the radio board shall be included in the commissioner of administration's appropriation request.

Subd. 3. Appropriation transfers. Each month, before the 25th day of the month, the commissioner of administration shall transmit to the metropolitan council 1/12 of its total approved appropriation for the regionwide public safety communication system.

History: 1995 c 195 art 1 s 11

473.902 OPERATING COSTS.

Subdivision 1. Allocation of operating costs. The current costs of the board in implementing regionwide public safety radio communication plan system and the first phase system shall be allocated among and paid by the following users, all in accordance with the regionwide public safety radio system communication plan adopted by the board:

- (1) the state of Minnesota for its operations using the system in the metropolitan counties;
- (2) all local government units using the system; and
- (3) other eligible users of the system.

Subd. 2. Payments to radio board; amounts due board when payable. Charges payable to the board by users of the system may be made payable at those times during each year as the board determines, but those dates shall be fixed with reference to the dates on which tax, assessment, and revenue collections become available to the government units required to pay such charges.

Subd. 3. Component municipalities obligations to board. Each local government and other eligible users of the first phase system shall pay to the board all sums charged to it under this section, at the times and in the manner determined by the board. The governing body of each local government shall take all action that may be necessary to provide the funds required for these payments and to make them when due.

Subd. 4. Powers of government units. To accomplish any duty imposed on it by the council or radio board, the governing body of every local government in the metropolitan area may exercise the powers granted any municipality by chapters 117, 412, 429, 475, and by sections 115.46, 444.075, and 471.59.

Subd. 5. Deficiency tax levies. If the governing body of any local government using the first phase system fails to meet any payment to the board under subdivision 1 when due, the metropolitan council may certify to the auditor of the county in which the government unit is located the amount required for payment of the amount due with interest at six percent per year. The auditor shall levy and extend the amount due, with interest, as a tax upon all taxable property in the government unit for the next calendar year, free from any existing limitations

imposed by law or charter. This tax shall be collected in the same manner as the general taxes of the government unit, and the proceeds of the tax, when collected, shall be paid by the county treasurer to the board and credited to the government unit for which the tax was levied.

History: 1995 c 195 art 1 s 12

473.903 SALE OF GENERAL OBLIGATION BONDS.

Subdivision 1. Amount; purposes. The metropolitan council may by resolution authorize the issuance of general obligation bonds of the council, in an amount outstanding and undischarged at any time not more than \$3,000,000, for which its full faith and credit and taxing powers shall be pledged for the council's share of the first phase. The metropolitan council may also issue general obligation bonds to refund outstanding obligations issued under this section. The amount of refunding bonds that may be issued from time to time shall not be subject to the dollar limitation contained in this subdivision nor the refunding bonds be included in computing the amount of bonds that may be issued within that dollar limitation.

Subd. 2. Sale, terms, security. The metropolitan council shall sell and issue the bonds in the manner provided in chapter 475 and shall have the same powers and duties as a municipality issuing bonds under that law, except that the approval of a majority of the electors shall not be required and the net debt limitations shall not apply. The bonds shall be secured in accordance with section 475.61, subdivision 1, and any taxes required for their payment shall be levied by the council, shall not affect the amount or rate of taxes which may be levied by the council for other purposes, and shall be levied without limitation of rate or amount upon all taxable property in the transit taxing district and transit area as provided in section 473.446, subdivision 1.

Subd. 3. Temporary loans. The metropolitan council may, after the authorization of bonds under this section, provide funds immediately required for the purposes of subdivision 1 by effecting temporary loans upon terms as it shall by resolution determine, evidenced by notes due in not exceeding 24 months from their date, payable to the order of the lender or to the bearer, to be repaid with interest from the proceeds of the bonds when issued and delivered to the purchaser. The temporary loans may be made without public advertisement.

History: 1995 c 195 art 1 s 13

473.904 LOCAL PLANNING.

Subdivision 1. County planning process. No later than two years from May 22, 1995, each metropolitan county shall undertake and complete a planning process for its public safety radio subsystem to ensure participation by representatives of local government units, quasi-public service organizations, and private entities eligible to use the regional public safety radio system and to ensure coordination and planning of the local subsystems. Local governments and other eligible users shall cooperate with the county in its preparation of the subsystem plan to ensure that local needs are met. The radio board shall encourage the establishment by each metropolitan county of local public safety radio subsystem committees composed of representatives of local governments and other eligible users for the purposes of:

(1) establishing a plan for coordinated and timely use of the regionwide public safety radio system by the local governments and other eligible users within each metropolitan county; and

(2) assisting and advising the board in its implementation of the regional public safety radio plan by identification of local service needs and objectives.

The board shall also encourage the establishment of joint or multicounty planning for the regionwide public safety radio system and subsystems.

The board may provide local boards with whatever assistance it deems necessary and appropriate.

No metropolitan county or city of the first class shall be required to undertake a technical subsystem design to meet the planning process requirements of this subdivision or subdivision 2.

Subd. 2. Cities of first class; planning process. Each city of the first class in the metropolitan counties shall have the option to participate in the county public safety radio subsystem planning process or develop its own plan.

Subd. 3. **Submission of plans to board.** Each metropolitan county and each city of the first class in the metropolitan area which has chosen to develop its own plan shall submit the plan to the board for the board's review and approval.

Subd. 4. **Local government joinder.** Local government units, except for cities of the first class, quasi-public service organizations, and private entities eligible to use the regional public safety radio system cannot join the system until its county plan has been approved by the board.

History: 1995 c 195 art 1 s 14

473.905 OPTIONAL LOCAL USE OF REGIONAL SYSTEM.

Subdivision 1. **Options.** Use of the regional public safety radio system by local governments, quasi-public service organizations, and private entities eligible to use the system shall be optional and no local government or other eligible user of the system shall be required to abandon or modify current public safety radio communication systems or purchase new equipment until the local government or other eligible user elects to join the system. Public safety radio communication service to local governments and other eligible users who do not initially join the system shall not be interrupted. No local government or other eligible users who do not join the system shall be charged a user fee for the use of the system.

Subd. 2. **Requirements to join.** Local governments and other entities eligible to join the regional public safety radio system which elect to join the system must do so in accordance with and meet the requirements of the provisions of the plan adopted by the radio board as provided in section 473.894, subdivision 2.

History: 1995 c 195 art 1 s 15