

Metropolitan Area

CHAPTER 473

METROPOLITAN GOVERNMENT

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DEFINITIONS

473.121 DEFINITIONS.

Subdivision 1. **Terms.** For the purposes of this chapter, the terms defined in this section have the meanings given them in this section, except as otherwise expressly provided or indicated by the context.

Subd. 2. **Metropolitan area or area.** "Metropolitan area" or "area" means the area over which the metropolitan council has jurisdiction, including only the counties of Anoka, Carver, Dakota excluding the city of Northfield, Hennepin excluding the city of Hanover, Ramsey, Scott excluding the city of New Prague, and Washington.

Subd. 3. **Metropolitan council or council.** "Metropolitan council" or "council" means the metropolitan council established by section 473.123.

Subd. 4. **Metropolitan county.** "Metropolitan county" means any one of the following counties: Anoka, Carver, Dakota, Hennepin, Ramsey, Scott or Washington.

Subd. 5. **State agency.** "State agency" means the state of Minnesota or any agency, board, commission, department or educational institution thereof.

Subd. 5a. **Metropolitan agency.** "Metropolitan agency" means the metropolitan parks and open space commission, metropolitan airports commission, and metropolitan sports facilities commission.

Subd. 6. **Local governmental unit.** "Local governmental unit" means any county, city, town, school district, special district or other political subdivisions or public corporation, other than the council or a metropolitan agency, lying in whole or part within the metropolitan area.

Subd. 7. [Repealed, 1986 c 460 s 59]

Subd. 8. **Metropolitan significance.** "Metropolitan significance" means a status determined by the metropolitan council pursuant to the rules and procedures established by section 473.173.

Subd. 9. [Repealed, 1986 c 460 s 59]

Subd. 10. **Policy plan.** "Policy plan" means a long-range comprehensive plan of the metropolitan council.

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.

Subd. 12. **Metropolitan parks and open space commission.** "Metropolitan parks and open space commission" means the commission established in sections 473.302 to 473.341.

Subd. 13. **Park district.** "Park district" means a park district created under chapter 398.

Subd. 14. **Regional recreation open space.** "Regional recreation open space" means land and water areas, or interests therein, and facilities determined by the metropolitan council to be of regional importance in providing for a balanced system of public outdoor recreation for the metropolitan area, including but not limited to park reserves, major linear parks and trails, large recreation parks, and conservatories, zoos, and other special use facilities.

Subd. 14a. [Repealed, 1994 c 628 art 3 s 209]

Subd. 15. [Repealed, 1994 c 628 art 3 s 209]

Subd. 16. **Metropolitan transit area.** "Metropolitan transit area" means the metropolitan area.

Subd. 17. [Repealed, 1977 c 454 s 49]

Subd. 18. **Operator.** "Operator" means any person engaged or seeking to engage in the business of providing regular route public transit.

Subd. 18a. **Paratransit.** "Paratransit" has the meaning given in section 174.22, subdivision 6.

Subd. 19. **Public transit or transit.** "Public transit" or "transit" has the meaning given in section 174.22, subdivision 7.

Subd. 20. **Public transit system or transit system.** "Public transit system" or "transit system" means, without limitation, a combination of property, structures, improvements, equipment, plants, parking or other facilities, and rights, or any thereof, used or useful for the purposes of public transit.

Subd. 20a. **Regular route transit.** "Regular route transit" has the meaning given in section 174.22, subdivision 8.

Subd. 21. [Repealed, 1994 c 628 art 3 s 209]

Subd. 22. **Acquisition and betterment.** "Acquisition" and "betterment" shall have the meanings given to them in chapter 475.

Subd. 23. **Interceptor.** "Interceptor" means any sewer and necessary appurtenances thereto, including but not limited to mains, pumping stations, and sewage flow regulating and measuring stations, which is designed or used to conduct sewage originating in more than one local government unit, or which is designed or used to conduct all or substantially all of the sewage originating in a single local government unit from a point of collection in that unit to an interceptor or treatment works outside that unit.

Subd. 24. **Metropolitan disposal system.** "Metropolitan disposal system" means any or all of the interceptors or treatment works owned or operated by the metropolitan council.

Subd. 25. **Pollution, sewer system, treatment works, disposal system, and waters of the state.** "Pollution", "sewer system", "treatment works", "disposal system", and "waters of the state" shall have the meanings given them in section 115.01.

Subd. 26. **Sewage.** "Sewage" means all liquid or water-carried waste products from whatever source derived, together with such ground water infiltration and surface water as may be present.

Subd. 27. [Repealed, 1980 c 564 art 13 s 2]

Subd. 28. [Repealed, 1980 c 564 art 13 s 2]

Subd. 29. [Repealed, 1980 c 564 art 13 s 2]

Subd. 30. [Repealed, 1976 c 179 s 20]

Subd. 31. [Repealed, 1980 c 564 art 13 s 2]

Subd. 31a. [Repealed, 1980 c 564 art 13 s 2]

Subd. 31b. [Repealed, 1980 c 564 art 13 s 2]

Subd. 31c. [Repealed, 1980 c 564 art 13 s 2]

Subd. 32. **Metropolitan airports commission.** "Metropolitan airports commission" means the commission established in sections 473.601 to 473.679.

Subd. 33. **Major airport.** "Major airport" means any airport now or which may hereafter be operated by the metropolitan airports commission as a terminal for regular, scheduled air passenger service.

Subd. 34. **Aeronautics.** "Aeronautics" means the transportation by aircraft, the operation, construction, repair, or maintenance of aircraft, aircraft power plants and accessories, including the repair, packing and maintenance of parachutes; the design, establishment, construction, operation, improvement, repair, or maintenance of airports, restricted landing areas, or other air navigation facilities and air instruction, and powers incidental thereto.

Subd. 35. **Airport.** "Airport" means any locality, either of land or water, including intermediate landing fields, which is used or intended to be used for the landing and take off of aircraft, whether or not facilities are provided for the shelter, servicing, or repair of aircraft, or for receiving or discharging passengers or cargo, and also includes any facility used in, available for use in, or designed for use in, aid of air navigation, including, but without limitation, landing areas, lights, any apparatus or equipment for disseminating weather information, for signaling, for radio-directional finding, or for radio or other electrical communication, and any other structure or mechanism having a similar purpose for guiding or controlling flight in the air or the landing and take off of aircraft, and also includes, but without limitation, access roads, parking areas, railroad siding facilities, such land contiguous or not as may be required for installations necessary for safe and efficient operation, buildings, structures, hangars, shops and any personal property usually used in connection with the operations of such airports, including specifically, but not exclusively, snow removal or impacting equipment, fire and ambulance equipment, motor vehicles and equipment for buildings, structures, hangars, and shops. It includes any area heretofore in the statutes of this state termed an "airport" or a "flying field."

Subd. 36. **Terms relating to waste.** The definitions of terms relating to waste in chapter 116 and section 115A.03, also apply to the same terms relating to waste used in this chapter.

History: 1975 c 13 s 1; 1976 c 127 s 24; 1976 c 179 s 1-6; 1977 c 347 s 68; 1977 c 421 s 6; 1977 c 454 s 29-32; 1978 c 543 s 1; 1980 c 378 s 1; 1980 c 564 art 10 s 1; 1983 c 330 s 1; 1984 c 654 art 3 s 101-107; 1985 c 248 s 70; 1986 c 460 s 1-3; 1987 c 384 art 2 s 1; 1994 c 628 art 3 s 36,37; 1995 c 186 s 82; 1995 c 236 s 3

METROPOLITAN COUNCIL

473.122 [Repealed, 1994 c 628 art 3 s 209]

473.123 METROPOLITAN COUNCIL.

Subdivision 1. **Creation.** A metropolitan council with jurisdiction in the metropolitan area is established as a public corporation and political subdivision of the state. It shall be under the supervision and control of 17 members, all of whom shall be residents of the metropolitan area.

Subd. 2. [Repealed, 1983 c 16 s 15]

Subd. 2a. **Terms.** Following each apportionment of council districts, as provided under subdivision 3a, council members must be appointed from newly drawn districts as provided in subdivision 3a. Each council member, other than the chair, must reside in the council district represented. Each council district must be represented by one member of the council. The terms of members end with the term of the governor, except that all terms expire on the effective date of the next apportionment. A member serves at the pleasure of the governor. A member shall continue to serve the member's district until a successor is appointed and qualified; except that, following each apportionment, the member shall continue to serve at large until the governor appoints 16 council members, one from each of the newly drawn council districts as provided under subdivision 3a, to serve terms as provided under this section. The appointment to the council must be made by the first Monday in March of the year in which the term ends.

Subd. 3. **Membership; appointment; qualifications.** (a) Sixteen members must be appointed by the governor from districts defined by this section. Each council member must reside in the council district represented. Each council district must be represented by one member of the council.

(b) In addition to the notice required by section 15.0597, subdivision 4, notice of vacancies and expiration of terms must be published in newspapers of general circulation in the metropolitan area and the appropriate districts. The governing bodies of the statutory and home rule charter cities, counties, and towns having territory in the district for which a member is to be appointed must be notified in writing. The notices must describe the appointments process and invite participation and recommendations on the appointment.

(c) The governor shall create a nominating committee, composed of seven metropolitan citizens appointed by the governor, to nominate persons for appointment to the council from districts. Three of the committee members must be local elected officials. Following the submission of applications as provided under section 15.0597, subdivision 5, the nominating committee shall conduct public meetings, after appropriate notice, to accept statements from or on behalf of persons who have applied or been nominated for appointment and to allow consultation with and secure the advice of the public and local elected officials. The committee shall hold the meeting on each appointment in the district or in a reasonably convenient and accessible location in the part of the metropolitan area in which the district is located. The committee may consolidate meetings. Following the meetings, the committee shall submit to the governor a list of nominees for each appointment. The governor is not required to appoint from the list.

(d) Before making an appointment, the governor shall consult with all members of the legislature from the council district for which the member is to be appointed.

(e) Appointments to the council are subject to the advice and consent of the senate as provided in section 15.066.

(f) Members of the council must be appointed to reflect fairly the various demographic, political, and other interests in the metropolitan area and the districts.

(g) Members of the council must be persons knowledgeable about urban and metropolitan affairs.

Subd. 3a. **Redistricting.** The legislature shall redraw the boundaries of the council districts after each decennial federal census so that each district has substantially equal population. Redistricting is effective in the year ending in the numeral "3." Within 60 days after a redistricting plan takes effect, the governor shall appoint members from the newly drawn districts to serve terms as provided under subdivision 2a.

Subd. 3b. [Repealed, 1993 c 314 s 7]

Subd. 3c. **District boundaries.** The council district boundaries are as follows:

(1) The first council district consists of that portion of Hennepin county consisting of the cities of Champlin, Corcoran, Dayton, Greenfield, Independence, Loretto, Maple Grove, Maple Plain, Medicine Lake, Medina, Minnetrista, Mound, Osseo, Plymouth, Rockford, Rogers, and St. Bonifacius, and the town of Hassan.

(2) The second council district consists of that portion of Hennepin county consisting of the cities of Brooklyn Center, Brooklyn Park, Crystal, New Hope, and Robbinsdale.

(3) The third council district consists of that portion of Hennepin county consisting of the cities of Deephaven, Edina, Excelsior, Greenwood, Hopkins, Long Lake, Minnetonka, Minnetonka Beach, Orono, Shorewood, Spring Park, Tonka Bay, Wayzata, and Woodland.

(4) The fourth council district consists of Carver county, that portion of Dakota county consisting of the city of Lakeville, that portion of Hennepin county consisting of the cities of Chanhassen and Eden Prairie, and that portion of Scott county in the metropolitan area not included in the fifth council district.

(5) The fifth council district consists of that portion of Hennepin county consisting of the cities of Bloomington and Richfield and the unorganized territory of Fort Snelling, and that portion of Scott county consisting of the cities of Savage and Shakopee.

(6) The sixth council district consists of that portion of Hennepin county consisting of the cities of Golden Valley and St. Louis Park and that portion of the city of Minneapolis lying west and south of a line described as follows: commencing at the intersection of the southern boundary of the city of Minneapolis and Interstate Highway 35W, northerly along Interstate Highway 35W to Minnehaha Parkway, northeasterly along Minnehaha Parkway to 50th Street E., westerly along 50th Street E. to Stevens Avenue S., northerly along Stevens Avenue S. to 46th Street E., westerly along 46th Street E. to Nicollet Avenue S., northerly along Nicollet Avenue S. to 36th Street W., westerly along 36th Street W. to Blaisdell Avenue S., northerly along Blaisdell Avenue S. to 34th Street W., westerly along 34th Street W. to Grand Avenue S., northerly along Grand Avenue S. to 32nd Street W., westerly along 32nd Street W. to Harriet Avenue S., northerly along Harriet Avenue S. to 31st Street W., westerly along 31st Street W. to Garfield Avenue S., northerly along Garfield Avenue S. to Lake Street W., westerly along Lake Street W. to Lyndale Avenue S., northerly along Lyndale Avenue S. to the Burlington Northern Railroad tracks, westerly along the northern branch of the Burlington Northern Railroad tracks to Glenwood Avenue N., westerly along Glenwood Avenue N. to the western boundary of the city of Minneapolis.

(7) The seventh council district consists of that portion of the city of Minneapolis lying within a line described as follows: commencing at the intersection of the northern boundary of the city of Minneapolis and the Mississippi River, southerly along the east bank of the Mississippi River to State Highway 122 southwesterly along State Highway 122 to Cedar Avenue S., southerly along Cedar Avenue S. to Minnehaha Avenue, southeasterly along Minnehaha Avenue to Cedar Avenue S., southerly along Cedar Avenue S. to Hiawatha Avenue, southerly along Hiawatha Avenue to 28th Street E., westerly along 28th Street E. to 21st Avenue S., southerly along 21st Avenue S. to 32nd Street E., westerly along 32nd Street E. to 19th Avenue S., southerly along 19th Avenue S. to 34th Street E., westerly along 34th Street E. to Bloomington Avenue S., southerly along Bloomington Avenue S. to 36th Street E., westerly along 36th Street E. to 10th Avenue S., southerly along 10th Avenue S. to 38th Street E., westerly along 38th Street E. to Elliot Avenue S., southerly along Elliot Avenue S. to 44th Street E., westerly along 44th Street E. to Chicago Avenue S., southerly along Chicago Avenue S. to 50th Street E., westerly along 50th Street E. to Park Avenue S., southerly along Park Avenue S. to Minnehaha Parkway, westerly along Minnehaha Parkway to the eastern boundary of the sixth council district, northerly and westerly along the boundary of the sixth council district to the western boundary of the city of Minneapolis, northerly and then easterly along the boundaries of the city of Minneapolis to the point of origin.

(8) The eighth council district consists of that portion of the city of Minneapolis not included in the sixth or seventh council district.

(9) The ninth council district consists of that portion of Anoka county not included in the tenth council district and that portion of Ramsey county consisting of the cities of Blaine and Spring Lake Park.

(10) The tenth council district consists of that portion of Anoka county consisting of the cities of Columbia Heights, Coon Rapids, Fridley, and Hilltop, that portion of Hennepin county consisting of the city of St. Anthony, and that portion of Ramsey county consisting of the cities of Mounds View, New Brighton, and St. Anthony.

(11) The eleventh council district consists of that portion of Ramsey county consisting of the cities of Arden Hills, Gem Lake, Little Canada, North Oaks, Roseville, Shoreview, Vadnais Heights, and White Bear Lake and the town of White Bear, and that portion of the

city of Maplewood not included in the twelfth council district, and that portion of Washington county consisting of the city of White Bear Lake.

(12) The twelfth council district consists of that portion of Ramsey county consisting of the city of North St. Paul and that portion of the city of Maplewood lying east and south of a line described as follows: commencing at the intersection of the southern boundary of the city of Maplewood and White Bear Avenue, northerly along White Bear Avenue to North St. Paul Road, northeasterly along North St. Paul Road to the eastern boundary of the city of Maplewood, and that portion of Washington county not included in the eleventh or sixteenth council district.

(13) The thirteenth council district consists of that portion of Ramsey county consisting of that portion of the city of St. Paul lying south of a line described as follows: commencing at the intersection of the eastern boundary of the city of St. Paul and Old Hudson Road, westerly along Old Hudson Road to White Bear Avenue, northerly along White Bear Avenue to East 3rd Street, westerly along East 3rd Street to Johnson Parkway, northerly along Johnson Parkway to East 4th Street, westerly along East 4th Street to Mounds Boulevard, southeasterly along Mounds Boulevard to East 3rd Street, southeasterly along East 3rd Street to the Burlington Northern Railroad tracks, northerly along the Burlington Northern Railroad tracks to the east-west Burlington Northern Railroad tracks, westerly along the east-west Burlington Northern Railroad tracks to Interstate Highway 35E, southerly along Interstate Highway 35E to University Avenue, westerly along University Avenue to Cleveland Avenue, southerly along Cleveland Avenue to Interstate Highway 94, westerly along Interstate Highway 94 to the western boundary of the city of St. Paul.

(14) The fourteenth council district consists of that portion of Ramsey county consisting of the cities of Falcon Heights and Lauderdale, and that portion of the city of St. Paul not included in the thirteenth council district.

(15) The fifteenth council district consists of that portion of Dakota county consisting of the cities of Apple Valley, Burnsville, Eagan, Lilydale, Mendota, and Mendota Heights.

(16) The sixteenth council district consists of that portion of Dakota county in the metropolitan area not included in the fourth or fifteenth council district, and that portion of Washington county consisting of the cities of Cottage Grove, Hastings, and St. Paul Park, and the towns of Denmark and Grey Cloud Island.

Subd. 4. Chair; appointment, officers, selection; duties and compensation. (a) The chair of the metropolitan council shall be appointed by the governor as the 17th voting member thereof by and with the advice and consent of the senate to serve at the pleasure of the governor to represent the metropolitan area at large. Senate confirmation shall be as provided by section 15.066.

The chair of the metropolitan council shall, if present, preside at meetings of the council, have the primary responsibility for meeting with local elected officials, serve as the principal legislative liaison, present to the governor and the legislature, after council approval, the council's plans for regional governance and operations, serve as the principal spokesperson of the council, and perform other duties assigned by the council or by law.

(b) The metropolitan council shall elect other officers as it deems necessary for the conduct of its affairs for a one-year term. A secretary and treasurer need not be members of the metropolitan council. Meeting times and places shall be fixed by the metropolitan council and special meetings may be called by a majority of the members of the metropolitan council or by the chair. The chair and each metropolitan council member shall be reimbursed for actual and necessary expenses. The annual budget of the council shall provide as a separate account anticipated expenditures for compensation, travel, and associated expenses for the chair and members, and compensation or reimbursement shall be made to the chair and members only when budgeted.

(c) Each member of the council shall attend and participate in council meetings and meet regularly with local elected officials and legislative members from the council member's district. Each council member shall serve on at least one division committee for transportation, environment, or community development.

(d) In the performance of its duties the metropolitan council may adopt policies and procedures governing its operation, establish committees, and, when specifically authorized by law, make appointments to other governmental agencies and districts.

Subd. 5. [Repealed, 1994 c 628 art 1 s 10]

Subd. 6. [Repealed, 1994 c 628 art 1 s 10]

Subd. 7. **Performance and budget analyst.** The council, other than the chair, may hire a performance and budget analyst to assist the 16 council members with policy and budget analysis and evaluation of the council's performance. The analyst may recommend and the council may hire up to two additional analysts to assist the council with performance evaluation and budget analysis. The analyst and any additional analysts hired shall serve at the pleasure of the council members. The 16 members of the council may prescribe all terms and conditions for the employment of the analyst and any additional analysts hired, including, but not limited to, the fixing of compensation, benefits, and insurance. The analyst shall prepare the budget for the provisions of this section and submit the budget for council approval and inclusion in the council's overall budget.

Subd. 8. **General counsel.** The council may appoint a general counsel to serve at the pleasure of the council.

History: 1975 c 13 s 3; 1977 c 35 s 6; 1978 c 543 s 2,3; 1980 c 378 s 2; 1982 c 424 s 130; 1983 c 16 s 1-4; 1983 c 305 s 25; 1Sp1985 c 13 s 353; 1986 c 444; 1986 c 460 s 4-6; 1990 c 460 s 1; 1993 c 314 s 1,2; 1994 c 628 art 1 s 4-7; art 2 s 1; art 3 s 38

473.125 REGIONAL ADMINISTRATOR.

The metropolitan council shall appoint a regional administrator to serve at the council's pleasure as the principal administrative officer for the metropolitan council. The regional administrator shall organize the work of the council staff. The regional administrator shall appoint on the basis of merit and fitness, and discipline and discharge all employees in accordance with the council's personnel policy, except (1) the performance and budget analysts provided for in section 473.123, subdivision 7, (2) the general counsel, as provided in section 473.123, subdivision 8, (3) employees of the offices of wastewater services and transit operations, who are appointed, disciplined, and discharged in accordance with council personnel policies by their respective operations managers, and (4) as provided in Laws 1994, chapter 628, articles 2, sections 3 and 4. The regional administrator must ensure that all policy decisions of the council are carried out. The regional administrator shall attend meetings of the council and may take part in discussions but may not vote. The regional administrator shall recommend to the council for adoption measures deemed necessary for efficient administration of the council, keep the council fully apprised of the financial condition of the council, and prepare and submit an annual budget to the council for approval. The regional administrator shall prepare and submit for approval by the council an administrative code organizing and codifying the policies of the council, and perform other duties as prescribed by the council. The regional administrator may be chosen from among the citizens of the nation at large, and shall be selected on the basis of training and experience in public administration.

History: 1994 c 628 art 2 s 2

473.127 ADVISORY COMMITTEES.

The metropolitan council may establish and appoint persons to advisory committees to assist the metropolitan council in the performance of its duties. Members of the advisory committees shall serve without compensation but shall be reimbursed for their reasonable expenses as determined by the metropolitan council.

History: 1975 c 13 s 4

473.128 [Repealed, 1986 c 460 s 59]

473.129 POWERS OF METROPOLITAN COUNCIL.

Subdivision 1. **General powers.** The metropolitan council shall have and exercise all powers which may be necessary or convenient to enable it to perform and carry out the duties and responsibilities now existing or which may hereafter be imposed upon it by law. Such powers include the specific powers enumerated in this section.

Subd. 2. Employees. The metropolitan council shall prescribe all terms and conditions for the employment of its employees including, but not limited to, adopting a compensation and classification plan for its employees. Employees of the metropolitan council are public employees and are members of the Minnesota state retirement system. Those employed by a predecessor of the metropolitan council and transferred to it may at their option become members of the Minnesota state retirement system or may continue as members of the public retirement association to which they belonged as employees of the predecessor of the metropolitan council. The metropolitan council shall make the employer's contributions to pension funds of its employees.

Subd. 3. Consulting contracts. The metropolitan council may contract for the services of consultants who perform engineering, legal, or services of a professional nature. Such contracts shall not be subject to the requirements of any law relating to public bidding.

Subd. 4. Gifts and appropriations. The metropolitan council may accept gifts, apply for and use grants or loans of money or other property from the United States, the state, or any person for any metropolitan council purpose and may enter into agreements required in connection therewith and may hold, use, and dispose of such moneys or property in accordance with the terms of the gift, grant, loan, or agreement relating thereto.

Subd. 5. Local governmental participation. The metropolitan council may (1) participate as a party in any proceedings originating before the Minnesota municipal board under chapter 414, if the proceedings involve the change in a boundary of a governmental unit in the metropolitan area, and (2) conduct studies of the feasibility of annexing, enlarging, or consolidating units in the metropolitan area.

Subd. 6. On metro agencies. (a) The metropolitan council shall appoint from its membership a member to serve with each metropolitan agency. Each member of the metropolitan council so appointed on each of such agencies shall serve without a vote.

(b) The metropolitan council shall also appoint individuals to the governing body of the cable communications metropolitan interconnected regional channel entity under section 238.43, subdivision 5.

Subd. 7. Property. The council may acquire, own, hold, use, improve, operate, maintain, lease, exchange, transfer, sell, or otherwise dispose of personal or real property, franchises, easements, or property rights or interests of any kind.

Subd. 8. Insurance. The council may provide for self-insurance or otherwise provide for insurance relating to any of its property, rights, or revenue, workers' compensation, public liability, or any other risk or hazard arising from its activities, and may provide for insuring any of its officers or employees against the risk or hazard at the expense of the council. If the council provides for self-insurance, against its liability and the liability of its officers, employees, and agents for damages resulting from its torts and those of its officers, employees, and agents, including its obligation to pay basic economic loss benefits under sections 65B.41 to 65B.71, it shall be entitled to deduct from damages and basic economic loss benefits all money paid or payable to the persons seeking damages and benefits from all governmental entities providing medical, hospital, and disability benefits except for payments made under the aid to families with dependent children or medical assistance programs.

Subd. 9. Investigations. When necessary and proper to the performance of its duties, the council may enter in a reasonable manner upon any premises for the purpose of making any reasonably necessary or proper investigations and examinations. The entry is not a trespass. The council is liable for any actual and consequential loss, injury, or damage from the entry. *When necessary and proper to the performance of its duties, the council or its authorized agents may require the production of accounts, books, records, memoranda, correspondence, and other documents and papers of a person receiving financial assistance from the council, may inspect and copy them, and may have access to and may inspect the lands, buildings, facilities, or equipment of the person.*

History: 1975 c 13 s 6; 1975 c 271 s 6; 1985 c 285 s 48; 1986 c 444; 1994 c 628 art 3 s 39

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.

Subd. 1a. Program evaluation. The budget procedure of the council must include a substantive assessment and evaluation of the effectiveness of each significant program of the council, with, to the extent possible, quantitative information on the status, progress, costs, benefits, and effects of each program. The council shall transmit the evaluation to the legislature annually.

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.

Subd. 3. Financial aid. The council may accept financial aid from governmental units within the metropolitan area, from the state or federal government, and from private donors, if the conditions under which it is offered are not incompatible with the provisions of this chapter.

Subd. 4. Accounts; audits. The council shall keep an accurate account of its receipts and disbursements. Disbursements of council money must be made by check, signed by the chair or vice-chair of the council, and countersigned by its regional administrator or designee after whatever auditing and approval of the expenditure may be required by the council. The state auditor shall audit the books and accounts of the council once each year, or as often as funds and personnel of the state auditor permit. The council shall pay to the state the total cost and expenses of the examination, including the salaries paid to the auditors while actual-

ly engaged in making the examination. The general fund must be credited with all collections made for any examination.

History: 1986 c 460 s 7; 1Sp1986 c 3 art 2 s 29,30; 1988 c 675 s 1,2; 1988 c 719 art 5 s 84; 1989 c 329 art 13 s 20; 1989 c 335 art 4 s 90; 1993 c 375 art 7 s 15; 1994 c 628 art 3 s 40,41; 1995 c 236 s 4,5

NOTE: Subdivision 1 was also amended by Laws 1994, chapter 416, article 1, section 51, to read as follows:

"Subdivision 1. **Budget.** On or before September 15 of each year the council, before the public hearing required in section 275.065, shall adopt a proposed 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 proposed budget, an increase of over \$10,000 in the council's budget, a program or department budget, or a budget item, must be approved by the council before the increase is allowed or the funds obligated. After adoption of a final budget for the ensuing year 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 sections 473.167 and 473.249."

473.132 SHORT-TERM INDEBTEDNESS.

The council may issue certificates of indebtedness or capital notes to purchase equipment to be owned and used by the council and having an expected useful life of at least as long as the terms of the certificates or notes. The certificates or notes shall be payable in not more than five years and shall be issued on such terms and in such manner as the council may determine, and for this purpose the council may secure payment of the certificates or notes by resolution or by trust indenture entered into by the council with a corporate trustee within or outside the state, and by a mortgage in the equipment financed. The total principal amount of the notes or certificates issued in a fiscal year should not exceed one-half of one percent of the tax capacity of the metropolitan area for that year. The full faith and credit of the council shall be pledged to the payment of the certificates or notes, and a tax levy shall be made for the payment of the principal and interest on the certificates or notes, in accordance with section 475.61, as in the case of bonds issued by a municipality. The tax levy authorized by this section must be deducted from the amount of taxes the council is otherwise authorized to levy under section 473.249.

History: 1989 c 355 s 12

473.141 [Repealed, 1994 c 628 art 3 s 209]

473.142 SMALL BUSINESSES.

(a) The metropolitan council and agencies specified in section 473.143, subdivision 1, may award up to a six percent preference in the amount bid for specified goods or services to small targeted group businesses designated under section 16B.19.

(b) The council and each agency specified in section 473.143, subdivision 1, may designate a purchase of goods or services for award only to small targeted group businesses designated under section 16B.19 if the council or agency determines that at least three small targeted group businesses are likely to bid.

(c) The council and each agency specified in section 473.143, subdivision 1, as a condition of awarding a construction contract or approving a contract for consultant, professional, or technical services, may set goals that require the prime contractor to subcontract a portion of the contract to small targeted group businesses designated under section 16B.19. The council or agency must establish a procedure for granting waivers from the subcontracting requirement when qualified small targeted group businesses are not reasonably available. The council or agency may establish financial incentives for prime contractors who exceed the goals for use of subcontractors and financial penalties for prime contractors who fail to meet goals under this paragraph. The subcontracting requirements of this paragraph do not apply to prime contractors who are small targeted group businesses. At least 75 percent of the value of the subcontracts awarded to small targeted group businesses under this paragraph must be performed by the business to which the subcontract is awarded or by another small targeted group business.

(d) The council and each agency listed in section 473.143, subdivision 1, are encouraged to purchase from small targeted group businesses designated under section 16B.19 when making purchases that are not subject to competitive bidding procedures.

(e) The council and each agency may adopt rules to implement this section.

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

(g) This section does not apply to procurement financed in whole or in part with federal funds if the procurement is subject to federal disadvantaged, minority, or women business enterprise regulations. The council and each agency shall report to the commissioner of administration on compliance with this section. The information must be reported at the time and in the manner requested by the commissioner.

History: 1988 c 680 s 2; 1988 c 689 art 2 s 268; 1989 c 352 s 20,25; 1990 c 541 s 27,29

473.1425 WORKING CAPITAL FUND.

The metropolitan council or a metropolitan agency defined in section 473.121, subdivision 5a, to the extent allowed by other law or contract, may grant available money that has been appropriated for socially or economically disadvantaged business programs to a guaranty fund administered by a nonprofit organization that makes or guarantees working capital loans to businesses owned and operated by socially or economically disadvantaged persons as defined in Code of Federal Regulations, title 49, section 23.5. The purpose of loans made or guaranteed by the organization must be to provide short-term working capital to enable eligible businesses to be awarded contracts for goods and services or for construction related services from government agencies.

History: 1989 c 320 s 2

473.143 AFFIRMATIVE ACTION PLANS.

Subdivision 1. Application. For purposes of this section, "agency" means a metropolitan agency as defined in section 473.121, except the metropolitan parks and open space commission. Agency also means the metropolitan mosquito control commission. For purposes of this section, "commissioner" means the commissioner of the state department of employee relations.

Subd. 2. Development and contents. The council and each agency shall develop an affirmative action plan and submit its plan to the commissioner for approval. The commissioner may not approve a plan unless the commissioner determines that it will be effective in assuring that employment positions are equally accessible to all qualified persons, in eliminating the underutilization of qualified members of protected groups, in providing a supportive work environment to all employees, regardless of race, religion, sex, national origin, or disability, and in dealing with discrimination complaints. For purposes of this section, "protected group" has the meaning given it in section 43A.02, subdivision 33. A plan must contain at least the elements required in this subdivision.

(a) It must identify protected groups that are underrepresented in the council's or agency's work force.

(b) It must designate a person responsible for directing and implementing the affirmative action program and assign the specific responsibilities and duties of that person. The person responsible for implementing the program shall report directly to the council's or agency's chief operating officer regarding the person's affirmative action duties. The person

responsible for the affirmative action program shall review examination and other selection criteria to assure compliance with law. This person shall be involved in the filling of all vacancies in the council or agency work force, to the extent necessary to facilitate attainment of affirmative action goals.

(c) It must describe the methods by which the plan will be communicated to employees and to other persons.

(d) It must describe methods for recruiting members of protected groups. These methods may include internship programs, cooperation with union apprenticeship programs, and other steps necessary to expand the number of protected group members in applicant pools.

(e) It must describe internal procedures in accordance with this paragraph for processing complaints of alleged discrimination from job applicants and employees. The procedures must provide for an initial determination of whether the complaint is properly a discrimination complaint subject to the procedure under the affirmative action plan. Complaints filed under the discrimination procedures that allege reprisals against an employee for opposing a forbidden practice or for filing a charge, testifying, or participating in an investigation, proceeding, or hearing relating to a forbidden practice are appealable to the chief operating officer of the council or agency. Procedures under this paragraph must be distinct from any procedures available under a union contract or personnel policy for nondiscrimination complaints. Use of procedures developed under this paragraph is not a prerequisite to filing charges with a governmental enforcement agency, nor does it limit a person's right to file these charges.

(f) It must set goals and timetables to eliminate underutilization of members of each protected group in the council or agency work force.

(g) It must provide a plan for retaining and promoting protected group members in the council or agency work force. This plan should encourage training opportunities for protected group members, to the extent necessary to eliminate underutilization in specific parts of the work force.

(h) It must describe methods of auditing, evaluating, and reporting program success, including a procedure that requires a preemployment review of all hiring decisions for occupational groups with unmet affirmative action goals.

(i) It must provide for training of management and supervisory personnel in implementation of the plan and in dealing with alleged acts of discrimination in the workplace.

(j) It must provide for periodic surveying of the council or agency work force to determine employee attitudes toward implementation of the plan.

(k) It must provide for creation of an employee committee to advise on implementation of the plan and on any changes needed in the plan.

Subd. 3. Harassment. The council and each agency shall adopt written policies forbidding harassment based on sex, disability, or race in their workplaces and establishing implementation plans and grievance procedures to deal with complaints of harassment based on sex, disability, or race.

Subd. 4. Performance evaluation. The evaluation of the performance of each supervisory and managerial employee of the council and the agencies must include evaluation of the person's performance in implementing the council's or agency's affirmative action plan and in preventing forbidden discrimination in the workplace.

Subd. 5. Report. By March 1 each year, the commissioner shall report to the legislature on affirmative action progress of the council and of each agency. The report must include:

(1) an audit of the record of the council and each agency to determine compliance with affirmative action goals and to evaluate overall progress in attainment of overall affirmative action objectives;

(2) if the council or any agency has failed to make satisfactory progress toward its affirmative action goals, a list of unmet goals and an analysis of why the failure occurred;

(3) a summary of all personnel actions taken by the council and each agency during the past calendar year, categorized by occupational group, protected group status, and full-time, part-time, temporary, and seasonal status; and

(4) a summary of discrimination complaints and lawsuits against the council and each agency filed or resolved during the past calendar year, including the basis for the complaints and lawsuits.

For purposes of this subdivision, "personnel action" means a new hire, promotion, transfer, demotion, layoff, recall from layoff, suspension with or without pay, letter of reprimand, involuntary termination, other disciplinary action, and voluntary termination.

The council and each agency shall report to the commissioner all information that the commissioner requests to make the report required by this subdivision. In providing this information, the council and agencies are not required to reveal information that is not public data under chapter 13.

The council and each agency shall submit these reports at the time and in the manner requested by the commissioner. The commissioner shall report to the legislature on the failure of the council or an agency to file the required report in a timely manner.

Subd. 6. Coordination. The commissioner or a designee shall meet with affirmative action officers of the council and all of the agencies to share successful techniques and foster innovative means to implement affirmative action plans and eliminate discrimination in the workplace.

Subd. 7. Coordination with legislature. The council and each agency shall facilitate legislative oversight of equal opportunity practices by providing the legislature access, including access to computerized records if compatible systems exist, to public data maintained by the agency. The council and agencies must not provide access to information that is not public data as defined in section 13.02, subdivision 8a.

History: 1988 c 680 s 3

473.144 CERTIFICATES OF COMPLIANCE FOR CONTRACTS.

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

History: 1988 c 680 s 4; 1991 c 19 s 2; 1993 c 277 s 8

473.145 DEVELOPMENT GUIDE.

The metropolitan council shall prepare and adopt, after appropriate study and such public hearings as may be necessary, a comprehensive development guide for the metropolitan area. It shall consist of a compilation of policy statements, goals, standards, programs, and maps prescribing guides for the orderly and economical development, public and private, of the metropolitan area. The comprehensive development guide shall recognize and encompass physical, social, or economic needs of the metropolitan area and those future developments which will have an impact on the entire area including but not limited to such matters as land use, parks and open space land needs, the necessity for and location of airports, highways, transit facilities, public hospitals, libraries, schools, and other public buildings.

History: 1975 c 13 s 8; 1989 c 306 s 1

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.

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

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

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

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

Subd. 3. Development guide: transportation. The transportation chapter must include policies relating to all transportation forms and be designed to promote the legislative determinations, policies, and goals set forth in section 473.371. In addition to the requirements of subdivision 1 regarding the contents of the policy plan, the nontransit element of the transportation chapter must include the following:

(1) a statement of the needs and problems of the metropolitan area with respect to the functions covered, including the present and prospective demand for and constraints on access to regional business concentrations and other major activity centers and the constraints on and acceptable levels of development and vehicular trip generation at such centers;

(2) the objectives of and the policies to be forwarded by the policy plan;

(3) a general description of the physical facilities and services to be developed;

(4) a statement as to the general location of physical facilities and service areas;

(5) a general statement of timing and priorities in the development of those physical facilities and service areas;

(6) a detailed statement, updated every two years, of timing and priorities for improvements and expenditures needed on the metropolitan highway system; and

(7) a general statement on the level of public expenditure appropriate to the facilities.

The council shall develop the nontransit element in consultation with the transportation advisory board and shall transmit the results to the state department of transportation.

Subd. 4. Transportation planning. The metropolitan council is the designated planning agency for any long-range comprehensive transportation planning required by section 134 of the Federal Highway Act of 1962, Section 4 of Urban Mass Transportation Act of 1964 and Section 112 of Federal Aid Highway Act of 1973 and other federal transportation laws. The council shall assure administration and coordination of transportation planning with appropriate state, regional and other agencies, counties, and municipalities, and shall

establish an advisory body consisting of citizens, representatives of municipalities, counties, and state agencies in fulfillment of the planning responsibilities of the council.

History: 1975 c 13 s 9; 1976 c 166 s 7; 1984 c 654 art 3 s 108,109; 1986 c 460 s 13-15; 1988 c 675 s 3; 1994 c 628 art 3 s 42,43; 1995 c 186 s 119

473.1465 TRANSPORTATION POLICY.

Subdivision 1. Definition. For the purposes of this section and section 473.1466 "commuting area" means the metropolitan area and counties outside the metropolitan area in which five percent or more of the residents commute to employment in the metropolitan area.

Subd. 2. Revised transportation policy plan. The metropolitan council shall adopt, after appropriate public comment, a revised transportation policy plan that:

- (1) is consistent with state law and council policy;
- (2) identifies and summarizes issues concerning commuting into and out of the seven-county area from the commuting area;
- (3) integrates and maximizes the efficiencies and effectiveness of all modes of transportation in the region; and
- (4) reflects and does not exceed current available resources.

The council shall adopt the revised transportation policy plan by December 31, 1996.

Subd. 3. Project evaluation. As part of developing the revised transportation policy plan, the council shall evaluate all proposed and pending transportation projects that are subject to council review and report to the legislature the results of council's evaluation.

History: 1996 c 464 art 2 s 1

473.1466 PERFORMANCE AUDIT.

In 1997 and every four years thereafter, the council shall provide for an independent entity selected through a request for proposal process conducted nationwide to do a performance audit of the commuting area's transportation system as a whole. The performance audit must evaluate the commuting area's ability to meet the region's needs for effective and efficient transportation of goods and people, evaluate future trends and their impacts on the region's transportation system, and make recommendations for improving the system. The performance audit must recommend performance-funding measures. In 1997 and every two years thereafter, the council must evaluate the performance of the metropolitan transit system's operation in relationship to the regional transit performance standards developed by the council.

History: 1996 c 464 art 2 s 2

473.147 REGIONAL RECREATION OPEN SPACE SYSTEM POLICY PLAN.

Subdivision 1. Requirements. The metropolitan council after consultation with the parks and open space commission, municipalities, park districts and counties in the metropolitan area, and after appropriate public hearings, shall prepare and adopt a long-range system policy plan for regional recreation open space as part of the council's metropolitan development guide. The plan shall substantially conform to all policy statements, purposes, goals, standards, and maps in development guide sections and comprehensive plans as developed and adopted by the council pursuant to the chapters of the Minnesota Statutes directly relating to the council. The policy plan shall identify generally the areas which should be acquired by a public agency to provide a system of regional recreation open space comprising park district, county and municipal facilities which, together with state facilities, reasonably will meet the outdoor recreation needs of the people of the metropolitan area and shall establish priorities for acquisition and development. In preparing or amending the policy plan the council shall consult with and make maximum use of the expertise of the commission. The policy plan shall include a five year capital improvement program, which shall be revised periodically, and shall establish criteria and priorities for the allocation of funds for such acquisition and development. The legislature in each bonding measure shall designate an anticipated level of funding for this acquisition and development for each of the two succeeding bienniums.

Subd. 2. Review, comment, hearing; revision. Before adopting the policy plan, the council shall submit the proposed plan to the parks and open space commission for its review, and the commission shall report its comments to the council within 60 days. The council shall hold a public hearing on the proposed policy plan at such time and place in the metropolitan area as it shall determine. Not less than 15 days before the hearing, the council shall publish notice thereof in a newspaper or newspapers having general circulation in the metropolitan area, stating the date, time and place of hearing, and the place where the proposed policy plan and commission comments may be examined by any interested person. At any hearing interested persons shall be permitted to present their views on the policy plan, and the hearing may be continued from time to time. After receipt of the commission's report and hearing, the council may revise the proposed plan giving appropriate consideration to all comments received, and thereafter shall adopt the plan by resolution. An amendment to the policy plan may be proposed by the council or by the parks and open space commission. At least every four years the council shall engage in a comprehensive review of the policy plan, development guide sections, comprehensive plans, capital improvement programs and other plans in substantial conformance with the requirements of subdivision 1 which have been adopted by the council.

History: 1975 c 13 s 10; 1983 c 344 s 24

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. 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 environment and natural resources committees of the senate and house of representatives, the finance division of the senate committee on environment and natural resources, and the house of representatives committee on environment and natural resources finance 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: 1975 c 13 s 11; 1976 c 179 s 7-9; 1980 c 564 art 10 s 2; 1981 c 352 s 31-34; 1982 c 569 s 22; 1983 c 373 s 46-50; 1984 c 644 s 58,59; 1985 c 248 s 70; 1985 c 274 s 16; 1986 c 460 s 16; 1987 c 348 s 39,40; 1987 c 384 art 2 s 101; 1988 c 685 s 29; 1989 c 325 s 51-53; 1989 c 335 art 1 s 269; 1Sp1989 c 1 art 20 s 27; 1991 c 199 art 2 s 1; 1991 c 337 s 63,64; 1993 c 249 s 39; 1994 c 585 s 40; 1994 c 628 art 3 s 44; 1995 c 186 s 83; 1995 c 247 art 1 s 47-51; art 2 s 24; 1996 c 470 s 27

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: 1976 c 179 s 18; 1985 c 248 s 70; 1995 c 247 art 2 s 25

473.153 [Repealed, 1994 c 628 art 3 s 209]

473.155 AVIATION PLANNING.

Subdivision 1. Assessment. By February 15 of each year, the council shall prepare a long-range assessment of air transportation trends and factors that may affect major airport development in the metropolitan area for a prospective 30-year period. The council shall involve the airports commission in preparing the assessment and shall take into consideration the airport development and operations plans and activities of the commission.

Subd. 2. Aviation plan. By February 1, 1990, the council shall amend the aviation chapter of the metropolitan development guide to incorporate policies and strategies that will ensure a comprehensive, coordinated, continuing, thorough, and timely investigation and evaluation of alternatives for major airport development in the metropolitan area for a prospective 30-year period. The alternatives to be examined must include both the airport improvements and enhancements of capacity that may be necessary at the existing airport and the location and development of a new airport.

Subd. 3. Search area. By January 1, 1992, the council, in consultation with the airports commission, shall designate a search area for a major new airport.

Subd. 4. Legislative reports. (a) Until the activities required by sections 473.616, subdivision 3, and 473.618 are completed, the council shall report to the legislature by February 15 of each year on the results of the aviation planning activities of the council under this section. The report must include a summary of expenditures and sources of funding for the activities.

(b) By February 1, 1990, the council shall report to the legislature recommending methods and legislative actions that would be necessary to protect a new airport search area from conflicting development, to protect and control development on land at and around a site for a major new airport, and to inhibit land speculation and reduce incentives for land speculation in the airport and all surrounding areas.

(c) By March 1, 1990, after consulting with the airports commission, the federal aviation administration, industry representatives, and other persons, the council shall report to the legislature on assumptions and methods that will be used by the council to forecast demand related to the need for major airport facilities in the metropolitan area for a prospective 30-year period.

(d) By March 1, 1990, the council shall report to the legislature analyzing and making recommendations on long-range aviation goals for the major airport facility in the metropolitan area for a prospective 30-year period. The report must address goals for safety, environmental impact, and service, including ground access and service levels to other states and countries and to nonmetropolitan areas of the state. In preparing the report, the council shall consider regional growth patterns, economic development, economic impact, regional and statewide investment, and ground transportation.

(e) By December 1, 1990, the council shall report to the legislature on the general availability of suitable land for a new airport in and in the area surrounding the metropolitan area.

(f) By January 1, 1993, the council shall report to the legislature on policies for the reuse of the existing major airport site should a new major airport be developed.

Subd. 5. Zoning of real property. The council shall not require a local government unit to continue a current use or to adopt a comprehensive plan designation or any change in zoning, zoning variance, or conditional use in order to ensure or preserve the availability of land for a new major airport.

History: 1989 c 279 s 1; 1996 c 464 art 3 s 1

473.1551 NEW AIRPORT SEARCH AREAS.

Subdivision 1. **Candidate search areas protection.** (a) The provisions of this subdivision apply within areas designated by the metropolitan council as candidates for selection as a search area for a new major airport under section 473.155, subdivision 3. The provisions apply until the council has selected a search area under section 473.155, subdivision 3.

(b) All land within the candidate search areas not zoned for other use is zoned for use exclusively for agricultural purposes, except that a prior nonconforming use established with reference to any lot or parcel of land may be continued.

(c) A local government unit in the metropolitan area may not permit a change in zoning, a zoning variance, or a conditional use, including planned unit developments, that the local unit or the metropolitan council determines is inconsistent with the comprehensive plan for the local government unit adopted in accordance with sections 473.175 and 473.851 to 473.871, or any other authority. Before approving an application or proposal for a change in zoning, zoning variance, or conditional use, the local government unit shall submit the application or proposal to the metropolitan council for review and approval or disapproval. The council may disapprove the application or proposal only if the council determines that it is inconsistent with the comprehensive plan of the local unit.

(d) The council shall give notice to the metropolitan airports commission of all submittals under paragraph (c). The commission may comment to the council on any submittal.

(e) The council shall approve or disapprove a submittal within 90 days following receipt by the council, unless a time extension is mutually agreed to by the council and the submitting unit. The commission has 45 days after notification to comment. The council and the commission shall establish administrative procedures for expedited disposition of proposals or applications that do not warrant metropolitan review.

(f) If a candidate search area includes land within a local unit of government outside of the metropolitan area, the metropolitan council and the local unit may enter into an agreement for the joint exercise of powers necessary to determine whether a proposed change in zoning, zoning variance, or conditional use will be compatible with the development and operation of a major airport.

Subd. 2. [Repealed, 1996 c 464 art 3 s 16]

History: 1990 c 440 s 1

473.156 METROPOLITAN WATER USE AND SUPPLY PLAN.

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

(1) update the data and information on water supply and use within the metropolitan area and develop a water use and availability database;

(2) identify and evaluate alternative courses of action, including water conservation initiatives and economic alternatives, in case of drought or contamination conditions;

(3) develop regional surface water and use projection models for resource evaluation;

(4) recommend long-term approaches to resolving problems that may develop because of water use and supply with consideration given to problems that occur outside of the metropolitan area, but which have an effect within the area; and

(5) be consistent with the statewide drought plan under section 103G.293.

Subd. 2. **Completion and report.** The short-term plan must be completed by February 1, 1990. The long-term plan must be completed by February 1, 1992, and continually updated as the need arises. The plans must be prepared in consultation with the Army Corps of Engineers, the Leech Lake Reservation business committee, the Mississippi headwaters board, department of natural resources, and the environmental quality board. Both plans must be given to the metropolitan affairs and natural resources committees of the house of representatives and senate, and be available to the public.

History: 1989 c 335 art 1 s 248; 1990 c 391 art 10 s 3; 1990 c 434 s 2,3; 1991 c 345 art 2 s 63; 1993 c 186 s 9

473.157 WATER RESOURCES PLAN.

To help achieve federal and state water quality standards, provide effective water pollution control, and help reduce unnecessary investments in advanced wastewater treatment, the council shall adopt a water resources plan that includes management objectives and target pollution loads for watersheds in the metropolitan area. The council shall recommend to the board of water and soil resources performance standards for watershed plans in the metropolitan area, including standards relating to the timing of plan revisions and proper water quality management.

History: 1990 c 601 s 5

473.161 [Repealed, 1994 c 628 art 3 s 209]

473.1623 METROPOLITAN COUNCIL, AGENCIES; FINANCIAL REPORTING AND MANAGEMENT.

Subdivision 1. Purpose. The purpose of this section is to enhance the efficiency, effectiveness, and responsiveness of metropolitan agencies and services, by improving coordination among metropolitan agencies in financial reporting and management for metropolitan systems and services.

Subd. 2. Advisory committee. A financial reporting and management advisory committee is created, consisting of the chairs of the council and the metropolitan airports commission and sports facilities commission. The committee is established to assist and advise the council and other governing boards in meeting the requirements of this section. Staff and administrative services for the committee must be provided by the council and the member agencies. Other agencies shall make financial information available upon request.

Subd. 3. Financial report. By December 15 of even-numbered years, the council, in consultation with the advisory committee, shall publish a consolidated financial report for the council and all metropolitan agencies and their functions, services, and systems. The financial report must cover the calendar year in which the report is published and the two years preceding and three years succeeding that year. The financial report must contain the following information, for each agency, function, or system, respectively, and in the aggregate, in a consistent format that allows comparison over time and among agencies in expenditure and revenue categories:

- (1) financial policies, goals, and priorities;
- (2) levels and allocation of public expenditure, including capital, debt, operating, and pass-through funds, stated in the aggregate and by appropriate functional, programmatic, administrative, and geographic categories, and the changes in expenditure levels and allocations that the report represents;
- (3) the resources available under existing fiscal policy;
- (4) additional resources, if any, that are or may be required;
- (5) changes in council or agency policies on regional sources of revenue and in levels of debt, user charges, and taxes;
- (6) other changes in existing fiscal policy, on regional revenues and intergovernmental aids respectively, that are expected or that have been or may be recommended by the council or the respective agencies;
- (7) an analysis that links, as far as practicable, the uses of funds and the sources of funds, by appropriate categories and in the aggregate;
- (8) a description of how the fiscal policies effectuate current policy and implementation plans of the council and agencies concerned; and
- (9) a summary of significant changes in council and agency finance and an analysis of fiscal trends.

The council shall present the report for discussion and comment at a public meeting in the metropolitan area and request, in writing, an opportunity to make presentations on the report before appropriate committees of the legislature.

Subd. 4. Financial reporting; budgeting. The advisory committee, with the assistance of the state auditor and the legislative auditor, shall develop uniform or consistent standards,

formats, and procedures for the budgets and financial reports of the council and all metropolitan agencies. The council shall report to the legislature from time to time on progress made by the committee in improving the uniformity and quality of budgets and financial reports and on legislation that may be needed for this purpose.

Subd. 4a. Summary budget. The council and each metropolitan agency shall prepare a summary budget for agency fiscal year 1988 and each year thereafter. The advisory committee, with the assistance of the state auditor and the legislative auditor, shall develop guidelines and models for the summary budgets. The purpose of the summary budget is to increase public knowledge and agency accountability by providing citizens outside of the agency with a condensed, accessible, and graphic description of the financial affairs of the agency. The document should contain a coherent, effectively communicated, understandable statement of: financial trends and forecasts; budget policies and policy changes; agency financial assumptions, objectives, and plans; revenue sources and expenditures by program category; personnel policies, decisions, and allocation; budgetary performance measures; and similar matters serving the purpose of the document.

Subd. 4b. Annual budget. The council and each metropolitan agency shall include in the annual budget:

(1) a statement of the reserve or fund balance carried forward at the end of the budget year, for at least the two preceding fiscal years;

(2) a comparison of budgeted and actual expenditures, reported by department and, if the agency has a program budget, by program, for at least the two preceding fiscal years;

(3) a comparison of budgeted and actual revenues, reported by revenue source, for at least the two preceding fiscal years; and

(4) a listing, by contract or project, of proposed or anticipated expenditures for consultants and professional, technical, and other similar services.

Subd. 5. Administrative coordination. The advisory committee shall evaluate the benefits, costs, methods, and effects, including operational effects, of joint or uniform and coordinated exercise of powers by the council and metropolitan agencies for appropriate administrative functions. The study must include at least ongoing managerial reporting, contracts, purchasing, data processing, and personnel. The council shall report to the legislature from time to time on the findings and recommendations of the advisory committee to date and on legal and other impediments to increased coordination of administrative functions. Before submitting the report, the council shall request comments on the report from the affected metropolitan agencies, and the comments must be submitted along with the report.

Subd. 6. Personnel and ethical practices; communication. By January 1 of each year, the council and each agency represented on the advisory committee established under this section shall report to the legislature on the following:

(1) agency personnel practices, including an analysis of trends, compliance with legal requirements, health care and other benefits, and salary levels in comparison with relevant job markets; and

(2) ethical practices requirements for board members and employees of each agency, including the sources of the requirements, agency comparisons, and comparison with requirements for state and local government officers and employees; and

(3) the activities undertaken by each agency board member and council member to regularly meet with and communicate with local officials and legislators in the member's district about issues before the agency or council.

The report on employee salaries under clause (1) must include details of: all lump sum payments or bonuses; and a description of all payments, expense accounts, allowances, including travel allowances, and other current benefits granted to individuals that are not made generally available to employees of the council or agency.

History: 1986 c 460 s 18; 1987 c 278 s 4-7; 1988 c 675 s 4,5; 1989 c 306 s 2-4; 1993 c 375 art 7 s 16; 1994 c 628 art 3 s 45,46

473.163 [Repealed, 1994 c 628 art 3 s 209]

473.1631 LEGISLATIVE REVIEW.

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

History: 1991 c 183 s 2

473.164 SPORTS FACILITIES, AIRPORT COMMISSION TO PAY COUNCIL COSTS.

Subdivision 1. Annually reimburse. The metropolitan sports facilities commission and the metropolitan airports commission shall annually reimburse the council for costs incurred by the council in the discharge of its responsibilities relating to the commission. The costs may be charged against any revenue sources of the commission as determined by the commission.

Subd. 2. Estimates, budget, transfer. On or before May 1 of each year, the council shall transmit to each commission an estimate of the costs which the council will incur in the discharge of its responsibilities related to the commission in the next budget year including, without limitation, costs in connection with the preparation, review, implementation and defense of plans, programs and budgets of the commission. Each commission shall include the estimates in its budget for the next budget year and may transmit its comments concerning the estimated amount to the council during the budget review process. Prior to December 15 of each year, the amount budgeted by each commission for the next budget year may be changed following approval by the council. During each budget year, the commission shall transfer budgeted funds to the council in advance when requested by the council.

Subd. 3. Final statement. 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: 1976 c 321 s 3; 1981 c 363 s 50; 1984 c 654 art 3 s 110; 1994 c 628 art 3 s 47; 1995 c 236 s 6

473.165 COUNCIL REVIEW; INDEPENDENT COMMISSIONS, BOARDS, AGENCIES.

(1) The metropolitan council shall review all long-term comprehensive plans of each independent commission, board, or agency prepared for its operation and development within the metropolitan area but only if such plan is determined by the council to have an areawide effect, a multicomunity effect, or to have a substantial effect on metropolitan development. Each plan shall be submitted to the council before any action is taken to place the plan or any part thereof, into effect.

(2) No action shall be taken to place any plan or any part thereof, into effect until 60 days have lapsed after the date of its submission to the council, or until the council finds and notifies the submitting commission, board, or agency that the plan is consistent with its comprehensive guide for the metropolitan area and the orderly and economic development of the metropolitan area, whichever first occurs. If, within 60 days after the date of submission, the council finds that a plan, or any part thereof, is inconsistent with its comprehensive guide for the metropolitan area or detrimental to the orderly and economic development of the metropolitan area, or any part thereof, it may direct that the operation of the plan, or such part thereof, be indefinitely suspended; provided that the council shall not direct the suspension of any plan or part thereof of any sanitary sewer district operating within the metropolitan area which pertains to the location and construction of a regional sewer plant or plants or the expansion or improvement of the present Minneapolis-St. Paul sanitary district treatment plant. An affected commission, board, or agency may appeal the decision of the metropolitan council suspending a plan, or part thereof, to the entire membership of the metropolitan council for public hearing. If the metropolitan council and the affected commission, board,

or agency are unable to agree as to an adjustment of the plan, so that it may receive the council's approval, then a record of the disagreeing positions of the metropolitan council and the affected commission, board, or agency shall be made and the metropolitan council shall prepare a recommendation in connection therewith for consideration and disposition by the next regular session of the legislature.

History: 1975 c 13 s 14

473.166 CONTROLLED ACCESS; TRANSIT FIXED-GUIDEWAY; COUNCIL APPROVAL.

Before acquiring land for or constructing a controlled access highway or transit fixed-guideway in the area, the state transportation department or local government unit proposing the acquisition or construction shall submit to the council a statement describing the proposed project. The statement must be in the form and detail required by the council. The council shall review the statement to ascertain its consistency with its policy plan and the development guide. No project may be undertaken unless the council determines that it is consistent with the policy plan. This approval is in addition to the requirements of any other statute, ordinance or rule.

History: 1975 c 13 s 15; 1976 c 166 s 7; 1982 c 520 s 4; 1984 c 654 art 3 s 111; 1986 c 444; 1993 c 353 s 3; 1994 c 628 art 3 s 48

473.167 HIGHWAY PROJECTS.

Subdivision 1. [Renumbered 473.166]

Subd. 2. **Loans for acquisition.** (a) 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.

(b) 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;

(3) to advance planning and environmental activities on highest priority major metropolitan river crossing projects, under the transportation development guide chapter/policy plan; or

(4) to take advantage of open market opportunities when developed properties become available for sale, provided all parties involved are agreeable to the sale and funds are available.

(c) 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. The eminent domain process may be used to settle differences of opinion as to fair market value, provided all parties agree to the process.

(d) 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.

(e) 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.

Subd. 2a. Hardship acquisition and relocation. (a) The council may make hardship loans to acquiring authorities within the metropolitan area to purchase homestead property located in a proposed state trunk highway right-of-way or project, and to provide relocation assistance. Acquiring authorities are authorized to accept the loans and to acquire the property. Except as provided in this subdivision, the loans shall be made as provided in subdivision 2. Loans shall be in the amount of the fair market value of the homestead property plus relocation costs and less salvage value. Before construction of the highway begins, the acquiring authority shall convey the property to the commissioner of transportation at the same price it paid, plus relocation costs and less its salvage value. Acquisition and assistance under this subdivision must conform to sections 117.50 to 117.56.

(b) The council may make hardship loans only when:

- (1) the owner of affected homestead property requests acquisition and relocation assistance from an acquiring authority;
- (2) federal or state financial participation is not available;
- (3) the owner is unable to sell the homestead property at its appraised market value because the property is located in a proposed state trunk highway right-of-way or project as indicated on an official map or plat adopted under section 160.085, 394.361, or 462.359;
- (4) the council agrees to and approves the fair market value of the homestead property, which approval shall not be unreasonably withheld; and
- (5) the owner of the homestead property is burdened by circumstances that constitute a hardship, such as catastrophic medical expenses; a transfer of the homestead owner by the owner's employer to a distant site of employment; or inability of the owner to maintain the property due to physical or mental disability or the permanent departure of children from the homestead.

(c) For purposes of this subdivision, the following terms have the meanings given them.

- (1) "Acquiring authority" means counties, towns, and statutory and home rule charter cities in the metropolitan area.
- (2) "Homestead property" means a single-family dwelling occupied by the owner, and the surrounding land, not exceeding a total of ten acres.
- (3) "Salvage value" means the probable sale price of the dwelling and other property that is severable from the land if offered for sale on the condition that it be removed from the land at the buyer's expense, allowing a reasonable time to find a buyer with knowledge of the possible uses of the property, including separate use of serviceable components and scrap when there is no other reasonable prospect of sale.

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. This tax for the right-of-way acquisition loan fund 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, provided that the tax levied by the metropolitan council for the right-of-way acquisition loan fund shall not exceed the product of (1) the metropolitan council's property tax levy under this subdivision for taxes payable in 1997 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 1997.

For the purpose of determining the metropolitan council's property tax levy limitation for the right-of-way acquisition loan fund, "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) 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.

Subd. 4. 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 to the commissioner of revenue by September 1 of the levy year. The commissioner of revenue shall annually determine whether the property tax for the right-of-way acquisition loan fund certified by the metropolitan council for levy following the adoption of its proposed budget is within the levy limitation imposed by this section. 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 calculation.

Subd. 5. [Repealed, 1996 c 464 art 1 s 12]

History: 1975 c 13 s 15; 1976 c 166 s 7; 1982 c 520 s 4; 1984 c 654 art 3 s 111; 1985 c 47 s 1,2; 1985 c 248 s 70; 1986 c 444; 1986 c 460 s 21; 1988 c 675 s 6-9; 1989 c 306 s 5-7; 1Sp1989 c 1 art 9 s 66; 1993 c 353 s 3; 1993 c 375 art 7 s 17; 1994 c 416 art 1 s 52; 1994 c 628 art 3 s 48; 1994 c 640 s 3; 1995 c 255 art 2 s 5-7; 1996 c 464 art 1 s 2-4

NOTE: The amendment to subdivision 3 by Laws 1996, chapter 464, article 1, section 4, is effective for taxes levied in 1997, payable in 1998 and subsequent years. Laws 1996, chapter 464, article 1, section 14.

NOTE: Subdivision 3a is repealed by Laws 1996, chapter 464, article 1, section 12, paragraph (b), effective January 1, 1998. Laws 1996, chapter 464, article 1, section 14.

473.168 FREEWAY EXCLUSIVE LANES.

Subdivision 1. Freeway defined. For the purpose of this section, "freeway" means a completely controlled access highway where ingress and egress is allowed only at certain designated points as determined by the road authority having jurisdiction over the highway.

Subd. 2. Exclusive lanes; multipassenger transit. The metropolitan council may require that any freeway constructed in the metropolitan area on which actual construction has not been commenced by April 12, 1974 include provisions for exclusive lanes for buses and, as the council may determine, other forms of multipassenger transit. The council, in making its determination, must demonstrate that the exclusive lanes are necessary to implement the transportation policy plan of the development guide.

History: 1975 c 13 s 16; 1984 c 654 art 3 s 112; 1994 c 628 art 3 s 49

473.169 [Renumbered 473.3994]

473.1691 [Repealed, 1989 c 339 s 24]

473.17 [Repealed, 1989 c 339 s 24]

473.171 COUNCIL REVIEW; APPLICATIONS FOR FEDERAL AND STATE AID.

Subdivision 1. **Federal.** The council shall review all applications of a metropolitan agency, independent commission, board or agency, and local governmental units for funds, grants, loans or loan guarantees from the United States of America or agencies thereof submitted in connection with proposed matters of metropolitan significance, all other applications by metropolitan agencies, independent commissions, boards and agencies, and local governmental units for grants, loans, or loan guarantees from the United States of America or any agency thereof if review by a regional agency is required by federal law or the federal agency, and all applications for grants, loans, or allocations from funds made available by the United States of America to the metropolitan area for regional facilities pursuant to a federal revenue sharing or similar program requiring that the funds be received and granted or allocated or that the grants and allocations be approved by a regional agency.

Subd. 2. **State.** The council shall review all applications or requests of a metropolitan agency, independent commission, board or agency, and local governmental units for state funds allocated or granted for proposed matters of metropolitan significance, and all other applications by metropolitan agencies, independent commissions, boards, agencies, and local governmental units for state funds if review by a regional agency is required by state law or the granting state agency.

History: 1975 c 13 s 17; 1986 c 460 s 22,23

473.173 COUNCIL REVIEW; METROPOLITAN SIGNIFICANCE.

Subdivision 1. **By rule and statute.** The council shall review all proposed matters of metropolitan significance to be undertaken by any private organization, independent commission, board or agency, local governmental unit, or any state agency in accordance with the rules adopted pursuant to this section and the provisions of any other relevant statute.

Subd. 2. **Rules.** By September 1, 1976, the council shall adopt and put into effect rules establishing standards, guidelines and procedures for determining whether any proposed matter is of metropolitan significance, and establishing a procedure for the review of and final determination on such matters in accordance with the powers and requirements set forth in this section. The purpose of these rules shall be to promote the orderly and economic development, public and private, of the metropolitan area.

Subd. 3. **Factors.** In developing the rules, the council and the advisory metropolitan land use committee, as defined in section 473.852, shall give consideration to all factors deemed relevant including but not limited to the following:

(1) The impact a proposed matter will have on the orderly, economical development, public and private, of the metropolitan area and its consistency with the metropolitan development guide;

(2) The relationship a proposed matter will have to the policy statement goals, standards, programs, and other applicable provisions of the development guide;

(3) The impact a proposed matter will have on policy plans adopted by the council;

(4) Functions of municipal governments in respect to control of land use as provided for under the municipal planning act.

Subd. 4. **Powers, requirements.** The rules shall include, without limitation, provisions to effectuate and comply with the following powers and requirements:

(1) No applicant shall be required to submit a proposed matter for review more than once unless it is materially altered.

(1a) A public hearing shall be held prior to the final determination with regard to a proposed matter.

(2) The council shall be empowered to suspend action on a proposed matter during the period of review and for a period not to exceed 12 months following the issuance of its final

determination. In its final determination, the council may prescribe appropriate conditions with regard to a proposed matter which, if incorporated or complied with, would cause the council to remove the suspension.

(3) The council's recommendation or determination concerning a proposed matter, including the determination as to its metropolitan significance, shall be issued within 90 days following its receipt of a proposal accompanied by adequate supporting information, unless all parties consent in writing to an extension. The council shall extend the time to complete the proceeding by an additional 30 days if the council determines that a fair hearing cannot be completed in the time allowed. To avoid duplication, the review may be suspended for not more than 90 days to await completion of review of a matter by another public agency.

(4) The council shall be required to review a proposed matter upon request of an affected local governmental unit. The rules shall include a procedure for review of a proposed matter upon petition by a specified number of residents of the metropolitan area 18 years of age or older.

(5) The council shall be empowered to review all proposed matters of metropolitan significance regardless of whether the council has received a request from an affected body to conduct that review.

(6) The council shall review all proposed matters determined to be of metropolitan significance as to their consistency with and effect upon metropolitan system plans as defined in section 473.852 and their adverse effects on other local governmental units.

(7) The council's approved policy plans and areas of operational authority shall not be subject to review under this section.

(8) When announcing the scope of a significance review in the notice commencing the review, the council shall state with particularity, with respect to each issue identified in the scoping document, the policies, provisions, statements, or other elements in metropolitan development guide chapters or policy plans and any other criteria or standards that will be considered or relied on in assessing and determining the metropolitan significance of the proposed project. The statement may be amended by notice to all parties given at least seven days before the public hearing. The statement does not preclude council comment on the consistency of the proposed project with any plans or policies of the council.

(9) Hearings must be conducted in accordance with the following procedures, unless waived in writing by the parties:

(a) The parties have the right to counsel.

(b) All testimony must be under oath.

(c) A complete and accurate record of all proceedings must be maintained.

(d) Any party or witness may be questioned by the hearing committee or judge, or by other parties.

(e) The burden of proof that a matter is of metropolitan significance is on the council.

(f) Decisions of the council on the metropolitan significance of a project must be based on a fair preponderance of the relevant evidence contained in the record and on written findings.

Subd. 5. APA; hearing. The rules and any major alteration or amendment thereto shall be developed and promulgated by the council in accordance with the provisions of this section and, to the extent not inconsistent or at variance with this section, in accordance with the administrative procedure act, chapter 14, and rules pursuant to thereto. Once the development of all of the rules has been completed by the council and the committee, and no later than 30 days prior to the date specified for their adoption, the council shall hold a public hearing for the purpose of considering the developed rules and receiving comments and recommendations thereon. Notice of the hearing shall be published in appropriate newspapers of general circulation in the metropolitan area and mailed to all persons who have registered for that purpose under chapter 14, appropriate state and regional agencies and all cities, counties, towns, school districts, and watershed districts within the metropolitan area no later than 30 days prior to the hearing. In adopting or amending the rules the enactment of this section shall be deemed to establish or show the need for and to provide evidence in support of the rules or amendments as required in chapter 14, and rules pursuant thereto, but the council shall pre-

pare for distribution a written summary describing the basis for the composition of the draft rules or amendments submitted for hearing and shall afford to all interested persons an opportunity at the hearing to question and make suggestions concerning their composition. Following the hearing, the council may revise the proposed rules, giving consideration to all comments received, and thereafter the council shall finally adopt these rules.

Subd. 6. Biennial review; legislative report. The council and the advisory metropolitan land use committee shall review and assess the rules following their effective date and at least every two years thereafter. No major alteration or amendments to standards for determining metropolitan significance shall be put into effect by the council until 90 days have elapsed following a report to the legislature in which the alteration or amendment was proposed and recommended by the council in the form of a proposed rule published under section 14.14, subdivision 1a, or 14.22. The report to the legislature must be made during the month of January.

History: 1975 c 13 s 18; 1976 c 321 s 2; 1982 c 424 s 130; 1985 c 248 s 70; 1986 c 460 s 24,25; 1988 c 675 s 11; 1989 c 306 s 8,9; 1994 c 628 art 3 s 50,51

473.175 REVIEW OF COMPREHENSIVE PLANS; SCHOOL CAPITAL PROGRAMS.

Subdivision 1. For compatibility, conformity. The council shall review the comprehensive plans of local governmental units and the capital improvement programs of school districts, prepared and submitted pursuant to Laws 1976, chapter 127, sections 1 to 23, to determine their compatibility with each other and conformity with metropolitan system plans. The council shall review and comment on the apparent consistency of the comprehensive plans and capital improvement programs with adopted plans of the council. The council may require a local governmental unit to modify any comprehensive plan or part thereof which may have a substantial impact on or contain a substantial departure from metropolitan system plans.

Subd. 2. 120-day limit, hearing. Within 120 days following receipt of a capital improvement program of a school district, unless a time extension is mutually agreed to, the council shall return to the school district a statement containing its comments. Within 120 days following receipt of a comprehensive plan of a local governmental unit, unless a time extension is mutually agreed to, the council shall return to the local governmental unit a statement containing its comments and, by resolution, its decision, if any, to require modifications to assure conformance with the metropolitan system plans.

No action shall be taken by any local governmental unit or school district to place any such comprehensive plan, capital improvement program or part thereof into effect until the council has returned the statement to the unit or district and until the local governmental unit has incorporated any modifications in the plan required by a final decision, order, or judgment made pursuant to section 473.866. Promptly after submission, the council shall notify each city, town, county, or special district which may be affected by the plans or programs submitted, of the general nature of the plans or programs, the date of submission, and the identity of the submitting unit or district. Political subdivisions contiguous to or within the submitting unit or district shall be notified in all cases. Within 30 days after receipt of such notice any governmental unit or district so notified or the local governmental unit or district submitting the plan or program may request the council to conduct a hearing at which the submitting unit or district and any other governmental unit or subdivision may present its views. The council may attempt to mediate and resolve differences of opinion which exist among the participants in the hearing with respect to the plans or programs submitted. If within 120 days, unless a time extension is mutually agreed to, the council fails to complete its written statement the plans or programs shall be deemed approved and may be placed into effect. Any amendment to a plan or program subsequent to the council's review shall be submitted to and acted upon by the council in the same manner as the original plan or program. The written statement of the council shall be filed with the plan of the local government unit or the program of the school district at all places where the plan or program is required by law to be kept on file.

Subd. 3. Enforcement to get conforming plan. If a local governmental unit fails to adopt a comprehensive plan in accordance with Laws 1976, chapter 127, sections 1 to 23 or if

the council after a public hearing by resolution finds that a plan substantially departs from metropolitan system plans and that the local governmental unit has not adopted a plan with modifications required pursuant to section 473.866 within nine months following a final decision, order, or judgment made pursuant to section 473.866, the council may commence civil proceedings to enforce the provisions of Laws 1976, chapter 127, sections 1 to 23 by appropriate legal action in the district court where the local governmental unit is located.

History: 1975 c 13 s 19; 1976 c 127 s 14; 1977 c 347 s 68; 1993 c 186 s 10

473.181 ADDITIONAL COUNCIL REVIEW POWERS.

Subdivision 1. **Trunk highways.** The council shall review proposed trunk highway construction pursuant to sections 161.171 et seq.

Subd. 2. **Parks.** The council shall review local government park master plans pursuant to section 473.313. The metropolitan council shall approve the use of moneys made available for land acquisition to local units of government from the land and conservation fund, the open space program of HUD, the natural resources account in the state treasury, if the use thereof conforms with the system of priorities established by law as part of a comprehensive plan for the development of parks; otherwise it shall disapprove of the use thereof.

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

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

Subd. 5. **Airports.** The council shall review metropolitan airports commission capital projects pursuant to section 473.621, subdivision 6. The plans of the metropolitan airports commission and the development of the metropolitan airports system by the commission shall, as provided in sections 473.611, subdivision 5, and 473.655, be consistent with the development guide of the council.

History: 1975 c 13 s 20; 1984 c 644 s 60; 1984 c 654 art 3 s 113; 1987 c 384 art 2 s 102

473.191 LOCAL PLANNING ASSISTANCE.

Subdivision 1. **Comprehensive community planning.** The metropolitan council may, at the request of local governmental units, enter into contracts or make other arrangements with local governmental units and others for the provision of services for and assistance with comprehensive community planning. This may include:

(a) Assistance in the preparation, as a guide for long-range development, of general physical plans with respect to the pattern and intensity of land use and the provision of public facilities together with long-range fiscal plans for such development;

(b) Programming of capital improvements based on a determination of relative urgency, together with definitive financing plans for the improvements to be constructed in the earlier years of the program;

(c) Coordination of all related plans of the departments or subdivision of the government concerned;

(d) Intergovernmental coordination of all related planned activities among the state and local governmental agencies concerned; and

(e) Preparation of regulatory and administrative measures in support of the foregoing.

Subd. 2. **Water resources.** The metropolitan council may provide technical assistance to cities, counties, and towns to expedite adoption and enforcement of local ordinances under sections 103F.121, 103F.201 to 103F.221, and 473.204 to 473.208.

History: 1975 c 13 s 21; 1987 c 384 art 2 s 1; 1990 c 391 art 8 s 54

473.192 AIRCRAFT NOISE ATTENUATION.

Subdivision 1. **Citation.** This section may be cited as the "metropolitan area aircraft noise attenuation act."

Subd. 2. **Definitions.** For purposes of this section, "metropolitan area" has the meaning given it in section 473.121, subdivision 2. "Aviation policy plan" means the plan adopted by the metropolitan council pursuant to section 473.145. "Municipality" has the meaning provided by section 462.352, subdivision 2.

Subd. 3. Ordinance. A municipality in the metropolitan area that, in part or in whole, is within the aircraft noise zones designated in the aviation policy plan may adopt and enforce ordinances and controls to regulate building construction methods and materials for the purpose of attenuating aircraft noise in habitable buildings in and around the noise zone. The ordinance or control shall not apply to remodeling or rehabilitating an existing residential building nor to the construction of an appurtenance to an existing residential building. An ordinance adopted by a municipality must be adequate to implement the metropolitan council's guidelines for land use compatibility with aircraft noise. Section 16B.62 does not apply to ordinances adopted under this section.

Subd. 4. MAC 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: 1987 c 155 s 1; 1995 c 186 s 84

473.193 [Repealed, 1986 c 460 s 59]

473.194 DEFINITIONS.

For the purposes of sections 473.194 to 473.201, the terms defined in the municipal housing and redevelopment act shall have the meanings given them in that act.

History: 1975 c 13 s 23; 1986 c 460 s 26

473.195 HOUSING AND REDEVELOPMENT AUTHORITY POWERS.

Subdivision 1. Under chapter 469; exceptions. 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.

Subd. 2. Technical assistance. The council may provide technical assistance to existing municipal or county housing and redevelopment authorities at the request of such authorities.

Subd. 3. Federal, state agent; cooperation. The council may cooperate with or act as agent for the federal government, the state government, or any agencies or instrumentalities thereof, in carrying out the provisions of any federal or state legislation relating to the general purposes of the municipal housing and redevelopment act.

Subd. 4. Citizen participation. The council shall, as part of any project proposal to a municipality, propose a means for citizens substantially affected by the proposed project to participate in the formulation and carrying out of projects undertaken by the council pursuant to the terms of sections 473.194 to 473.201.

History: 1975 c 13 s 24; 1982 c 424 s 109; 1986 c 460 s 27; 1987 c 291 s 227; 1990 c 532 s 13; 1995 c 112 s 1

473.197 HOUSING BOND CREDIT ENHANCEMENT PROGRAM.

Subdivision 1. Authorization. The metropolitan council may establish a housing bond credit enhancement program as provided in this section. The council may pledge its full faith and credit and taxing powers to the payment of bonds issued under section 469.034 for qualified housing development projects in the metropolitan area, as provided in this section. A "qualified housing development project" has the meaning given that term in section 469.034, subdivision 2, paragraph (e), except that the council is substituted for "general jurisdiction governmental unit" in clause (3) and "60 percent of the median family income" is substituted for "80 percent of the median family income."

Subd. 2. Project selection. Before pledging its full faith and credit, the council must establish criteria for selecting appropriate qualified housing development projects for the credit enhancement program. The council may award preferences for qualified housing development projects that meet criteria for preferences established by the council. The council must establish the criteria in consultation with housing providers in the metropolitan area. In developing priorities for projects for the credit enhancement program, the council shall give priority to projects that develop or redevelop housing for low-income households. The council shall consider the extent to which projects for the credit enhancement program are developed in collaboration with Minnesota Youth-Build under sections 268.361 to 268.367; or training for housing programs for homeless adults under Laws 1992, chapter 376, article 6; or other employment training programs.

Subd. 3. Limitation. The aggregate principal amount of bonds that may be secured by a pledge of the council's full faith and credit under this section may not exceed \$20,000,000. The bonds must be payable from revenues derived from the project or projects financed under the credit enhancement program, or from income of the authority or authorities that participate in the program, including earnings on any reserves established for the program. The council must find that the pledged revenues will equal or exceed 110 percent of the principal and interest due on the bonds.

Subd. 4. Debt reserve; levy. To provide money to pay debt service on bonds issued under the credit enhancement program if pledged revenues are insufficient to pay debt service, the council must maintain a debt reserve fund in the manner and with the effect provided by section 118A.04 for public funds. To provide funds for the debt reserve fund, the council may use up to \$3,000,000 of the proceeds of solid waste bonds issued by the council under section 473.831 before its repeal. To provide additional funds for the debt reserve fund, the council may levy a tax on all taxable property in the metropolitan area and must levy the tax if sums in the debt reserve fund are insufficient to cure any deficiency in the debt service fund established for the bonds. The tax authorized by this section does not affect the amount or rate of taxes that may be levied by the council for other purposes and is not subject to limit as to rate or amount.

Subd. 5. **Agreements.** The council and each authority that participates in the credit enhancement program may enter into agreements they determine to be necessary to implement the credit enhancement program. The agreements may extend over any period, notwithstanding any law to the contrary.

History: 1994 c 587 art 12 s 22; 1996 c 399 art 2 s 8

473.199 EFFECT ON A MUNICIPAL OR COUNTY HRA.

Nothing in sections 473.194 to 473.201 shall be construed to impair the powers and obligations of municipal, county or multicounty housing and redevelopment authorities within the metropolitan area.

History: 1975 c 13 s 25; 1986 c 460 s 28

473.201 FINANCES.

Subdivision 1. The council shall allocate the net unreimbursed costs of any project which it undertakes to the municipality or group of municipalities or county for which the project is undertaken. The governing body of each such municipality or county shall impose taxes or other revenue measures to provide funds necessary to pay the allocated costs, and the governing body of each such municipality or county shall have all the powers, authority and obligation granted to authorities by section 469.033 and all other provisions of law regarding the financing of such projects, provided that the council shall have the powers of an authority for purposes of applying for and receiving federal grants in connection with all projects which it undertakes.

Subd. 2. The council may expend for the purposes of sections 473.194 to 473.201 any revenues derived pursuant to section 473.249.

History: 1975 c 13 s 26; 1986 c 460 s 29; 1987 c 291 s 228

473.203 [Repealed, 1986 c 460 s 59]

473.204 [Repealed, 1996 c 310 s 1]

473.206 LOCAL ORDINANCES.

Each county, city or town in the metropolitan area shall be provided with standards, criteria and suggested model ordinances and may, after review and comment by the metropolitan council, adopt ordinances which provide for the protection of the resources described in section 473.204.

History: 1975 c 13 s 29

473.208 COOPERATION.

In adopting and enforcing the ordinances for which standards and criteria are provided by sections 473.204 to 473.208, counties, cities and towns shall consult and cooperate with affected soil and water conservation districts, watershed districts, and lake conservation districts on matters of common concern.

History: 1975 c 13 s 30; 1987 c 384 art 2 s 1

473.215 [Repealed, 1986 c 460 s 59]

473.216 [Repealed, 1986 c 460 s 59]

473.217 [Repealed, 1986 c 460 s 59]

473.218 [Repealed, 1986 c 460 s 59]

473.219 [Repealed, 1986 c 460 s 59]

473.223 FEDERAL AID.

For the purposes of this section the term "governmental subdivision" includes municipalities, counties and other political subdivisions generally. If federal aid for transportation

programs and projects is otherwise unavailable to an existing agency or governmental subdivision, the metropolitan council may cooperate with the government of the United States and any agency or department thereof and the affected agency or other governmental subdivision in establishing metropolitan area eligibility to receive federal aid, and may comply with the provisions of the laws of the United States and any rules and regulations made thereunder for the expenditure of federal moneys upon such projects as are proposed for federal assistance. The metropolitan council may accept federal aid and other aid, either public or private, for and in behalf of the metropolitan area or any governmental subdivision of the state, for transportation programs and projects within the metropolitan area upon such terms and conditions as are or may be prescribed by the laws of the United States and any rules or regulations made thereunder, and is authorized to act as agent of any governmental subdivision of the state with jurisdiction in the metropolitan area upon request of such subdivision in accepting the aid in its behalf for such programs or projects financed either in whole or in part by federal aid. The governing body of any such subdivision is authorized to designate the metropolitan council as its agent for such purposes and to enter into an agreement with the council prescribing the terms and conditions of the agency relationship in accordance with state and federal laws, rules and regulations. The metropolitan council is authorized to designate an appropriate state agency as its agent for such purposes and to enter into an agreement with such agency prescribing the terms and conditions of the agency relationship in accordance with state and federal laws, rules and regulations.

Nothing contained herein shall limit any separate authority of agencies or governmental subdivisions of the state to contract for and receive federal aid.

History: 1975 c 13 s 36; 1980 c 509 s 172; 1984 c 654 art 3 s 114; 1994 c 628 art 3 s 52

473.23 PUBLIC FACILITIES REVIEW.

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

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

History: 1991 c 265 art 5 s 15; 1Sp1995 c 3 art 16 s 13

473.241 DATA COLLECTION.

The metropolitan council in cooperation with other departments and agencies of the state and the regents of the University of Minnesota may develop a center for data collection and storage to be used by it and other governmental users and may accept gifts as otherwise authorized in this section for the purposes of furnishing information on such subjects as population, land use, governmental finances, and the like.

History: 1975 c 13 s 37

473.242 URBAN RESEARCH.

Where studies have not been otherwise authorized by law the metropolitan council may study the feasibility of programs relating but not limited to water supply, refuse disposal, surface water drainage, communication, transportation, and other subjects of concern to the peoples of the metropolitan area, may institute demonstration projects in connection therewith, and may accept gifts for such purposes as otherwise authorized in this section.

History: 1975 c 13 s 38

473.243 EMERGENCY SERVICES.

The metropolitan council may coordinate emergency services, community shelter planning within the metropolitan area, accept gifts for such purposes as otherwise authorized in

section 473.129 and contract with local governmental agencies and consultants in connection therewith.

History: 1975 c 13 s 39

473.244 SPECIAL STUDIES AND REPORTS.

Subdivision 1. **Research and study topics.** The metropolitan council shall engage in a continuous program of research and study concerning the matters enumerated in this section.

Subd. 2. **Air pollution.** The control and prevention of air pollution.

Subd. 3. **Parks, open space.** The acquisition and financing of suitable major parks and open spaces within and adjacent to the metropolitan area.

Subd. 4. **Water pollution.** The control and prevention of water pollution in the metropolitan area in conformity with applicable federal and state laws.

Subd. 5. **Local long-range plans.** The development of long-range planning in the metropolitan area but not for the metropolitan area.

Subd. 6. **Solid waste.** The acquisition of necessary facilities for the disposal of solid waste material for the metropolitan area and the means of financing such facilities.

Subd. 7. **Tax structure, equity.** The examination of the tax structure in the metropolitan area and consideration of ways to equalize the tax resources therein.

Subd. 8. **Assessment practices.** Assessment practices in the metropolitan area.

Subd. 9. **Storm water facilities.** The acquisition of necessary storm water drainage facilities for the metropolitan area and the means of financing such facilities.

Subd. 10. **Consolidation of local services.** The necessity for the consolidation of common services of local governmental units and the kind of consolidation most suitable in the public interest.

Subd. 11. **Advance development land acquisition.** Advance land acquisition for development purposes in the metropolitan area and the role of the public in connection therewith.

Subd. 12. **Recommendations.** All studies shall include recommendations as to the governmental organization, governmental subdivision, or governmental district best suited to discharge the powers recommended.

History: 1975 c 13 s 40

473.245 REPORTS.

On or before January 15 of each year, the metropolitan council shall report to the legislature. The report shall include:

(1) A statement of the metropolitan council's receipts and expenditures by category since the preceding report;

(2) A detailed budget for the year in which the report is filed and the following year including an outline of its program for such period;

(3) An explanation of any policy plan and other comprehensive plan adopted in whole or in part for the metropolitan area and the review comments of the affected metropolitan agency;

(4) Summaries of any studies and the recommendations resulting therefrom made by the metropolitan council, and a listing of all applications for federal money made by governmental units within the metropolitan area submitted to the metropolitan council;

(5) A listing of plans of local governmental units and proposed matters of metropolitan significance submitted to the metropolitan council;

(6) A detailed report on the progress of any project undertaken by the council pursuant to sections 473.194 to 473.201; and

(7) Recommendations of the metropolitan council for metropolitan area legislation, including the organization and functions of the metropolitan council and the metropolitan agencies.

History: 1975 c 13 s 41; 1986 c 460 s 30; 1987 c 384 art 2 s 1

473.247 METROPOLITAN AGENCIES; PUBLIC INFORMATION.

The council shall publish a consolidated metropolitan bulletin or register containing official notices, meeting and hearing schedules, notices of adopted ordinances, rules, policies, and similar matters for the council and all metropolitan agencies. Metropolitan agencies shall cooperate with the council in providing timely information for publication.

History: 1987 c 278 s 9

473.249 TAX LEVY.

Subdivision 1. Indexed limit. The metropolitan council may levy a tax on all taxable property in the metropolitan area defined in section 473.121 to provide funds for the purposes of sections 473.121 to 473.249 and for the purpose of carrying out other responsibilities of the council as provided by law. This tax for general purposes shall be levied and collected in the manner provided by section 473.13.

The property tax levied by the metropolitan council for general purposes shall not exceed the following amount for the years specified:

(a) for taxes payable in 1988, the product of 8/30 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, the product of (1) the metropolitan council's property tax levy limitation for general purposes 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; and

(c) for taxes payable in 1990 and subsequent years, the product of (1) the metropolitan council's property tax levy limitation for general purposes for the previous year determined under this subdivision multiplied by (2) the lesser of

(i) 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 the previous taxes payable year;

(ii) an index equal to the implicit price deflator for state and local government purchases of goods and services for the most recent month for which data are available divided by the implicit price deflator for state and local government purchases of goods and services for the same month of the previous year; or

(iii) 103 percent.

For the purpose of determining the metropolitan council's property tax levy limitation for general purposes 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. 2. Deadlines; estimates. 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 to the commissioner of revenue by September 1 of the levy year. The commissioner of revenue shall annually determine whether the ad valorem property tax certified by the metropolitan council for levy following the adoption of its proposed budget is within the levy limitation imposed by this section. The determination shall be completed prior to September 10 of each year. If current information regarding gross tax capacity in any county is not transmitted to the commissioner in a timely manner, the commissioner may estimate the current gross tax capacity within that county for purposes of making the calculation.

Subd. 3. [Repealed, 1989 c 306 s 12]

History: 1975 c 13 s 42; 1976 c 179 s 19; 1978 c 543 s 4; 1978 c 766 s 17,18; 1986 c 460 s 31; 1988 c 675 s 12,13; 1988 c 719 art 5 s 84; 1989 c 306 s 10; 1989 c 329 art 15 s 20; 1Sp1989 c 1 art 9 s 67; 1993 c 375 art 7 s 18; 1994 c 416 art 1 s 53

LIVABLE COMMUNITIES ACT

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 purpose 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. 1a. **Development authority.** For the purpose of this section, "development authority" means a statutory or home rule charter city, housing and redevelopment authority, economic development authority, and a port authority.

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 subdivision 4, 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 or development authorities for the cleanup of polluted land in the metropolitan area. A grant to a metropolitan county or a development authority 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.

Subd. 4. **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 the tax base revitalization account in the metropolitan livable communities fund. This tax for 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, provided that the tax levied by the metropolitan council for the tax base revitalization account shall not exceed the product of (1) the metropolitan council's levy for the tax base revitalization account under section 473.167, subdivision 3, for taxes payable in 1997 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 1997.

For the purpose of determining the metropolitan council's property tax levy limitation for the tax base revitalization account, "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. 5. **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 to the commissioner of revenue by September 1 of the levy year. The commissioner of revenue shall annually determine whether the property tax for the

tax base revitalization account certified by the metropolitan council for levy following the adoption of its proposed budget is within the levy limitation imposed by this section. 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 calculation.

History: 1995 c 255 art 1 s 3; 1996 c 452 s 37; 1996 c 464 art 1 s 5

NOTE: The amendment to subdivision 2, and the addition of subdivisions 4 and 5 by Laws 1996, chapter 464, article 1, section 5, are effective for taxes levied in 1997, payable in 1998 and subsequent years. Laws 1996, chapter 464, article 1, section 14.

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, life-cycle 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, life-cycle 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. Report to council. 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 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. Metro report card. 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

PARKS AND OPEN SPACE COMMISSION

473.301 DEFINITIONS.

Subdivision 1. Terms. As used in sections 473.302 to 473.341, the terms defined in this section have the meanings given them.

Subd. 2. Policy plan. "Policy plan" means a plan adopted by the council pursuant to section 473.147, generally describing the extent, type and location of regional recreation

open space needed for the metropolitan area and the timing of its acquisition and development.

Subd. 3. **Master plan.** "Master plan" means a plan describing the boundaries of specific parks or other regional recreation open space and the nature of their development and use.

Subd. 4. **Commission.** "Commission" means the metropolitan parks and open space commission created by section 473.303.

Subd. 5. **Municipality.** "Municipality" means any city or town exercising municipal powers located in the metropolitan area, except where there exists in a city of the first class an elected park and recreation board having control of parks, parkways, playgrounds, and trees, for purposes of sections 473.302 to 473.341, that board shall be considered a municipality.

History: 1975 c 13 s 43

473.302 REGIONAL RECREATION OPEN SPACE SYSTEM; PURPOSE.

The legislature finds that the pressure of urbanization and development threatens valuable recreational open space areas in the metropolitan area at the same time as the need for such areas is increased. Immediate action is therefore necessary to provide funds to acquire, preserve, protect and develop regional recreational open space for public use.

History: 1975 c 13 s 44; 1977 c 421 s 7

473.303 METROPOLITAN PARKS AND OPEN SPACE COMMISSION.

Subdivision 1. **General.** A metropolitan parks and open space commission is established as an agency of the council and shall be organized and structured as provided in this section.

Subd. 2. **Membership; appointments.** (a) The agency consists of eight members, plus a chair appointed as provided in subdivision 3. The metropolitan council shall appoint the eight members on a nonpartisan basis after consultation with the members of the legislature from the district for which the member is to be appointed. The consultation with legislators in the affected district must include informing each legislator of the name, address, and background of each candidate for appointment and soliciting and reporting to the appointments committee the recommendation of each legislator on the appointment.

(b) In addition to the notice required in section 15.0597, subdivision 4, notice of vacancies and expiration of terms must be published in newspapers of general circulation in the metropolitan area and the appropriate districts. The council shall notify in writing the governing bodies of the statutory and home rule charter cities, counties, and towns having territory in the district for which the member is to be appointed. The notices must describe the appointment process and invite participation and recommendations on the appointment.

(c) The council shall establish an appointments committee, composed of members of the council, to screen and review candidates. Following the submission of member applications to the metropolitan council as provided under section 15.0597, subdivision 5, the appointments committee shall conduct public meetings, following appropriate notice, to accept statements from or on behalf of persons who have applied or been nominated for appointment and to allow consultation with and secure the advice of the public and local elected officials. The committee shall hold the meeting on each appointment in the district or in a reasonably convenient and accessible location in the part of the metropolitan area in which the district is located. The committee may consolidate meetings. Following the meetings, the committee shall submit to the council a written report that lists the persons who have applied or been nominated or recommended for the position, along with a description of the background and qualifications of each. In making its recommendation, the committee specifically shall consider evidence of the candidate's commitment to regularly communicate on issues before the agency with metropolitan council members, legislators and local elected officials in the district, and the committee shall report its findings on this subject in its written report to the council.

(d) One member shall be appointed from each of the following agency districts:

- (1) district A, consisting of council districts 1 and 2;
- (2) district B, consisting of council districts 3 and 4;

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

Subd. 3. **Chair.** The chair of the commission shall be appointed by the council and shall be the ninth member of the commission and shall meet all qualifications established for members, except the chair need only reside within the metropolitan area. The chair shall preside at all meetings of the commission, if present, and shall perform all other duties and functions assigned by the commission or by law. The commission may appoint from among its members a vice-chair to act for the chair during temporary absence or disability.

Subd. 3a. **Members; duties.** Each member shall communicate regularly with metropolitan council members, legislators, and local government officials in the district the member represents.

Subd. 4. **Qualifications.** Each member shall be a resident of the commission district for which appointed and shall not during terms of office as a commission member hold the office of metropolitan council member, or be a member of any metropolitan agency or hold any judicial office.

Subd. 4a. **Terms.** Following each apportionment of metropolitan council districts, as provided under section 473.123, subdivision 3a, the metropolitan council shall appoint a chair and eight commission members from newly drawn districts. The terms of members and chairs are as follows: members representing commission districts A, B, C, and D, and the chair of the commission, for terms ending the first Monday in January of the year ending in the numeral "7"; members representing commission districts E, F, G, and H, for terms ending the first Monday in January of the year ending in the numeral "5." Thereafter the term of each member and the chair is four years, with terms ending the first Monday in January, except that all terms expire on the effective date of the next apportionment. The chair shall continue to serve until a successor is appointed and qualified. A member shall continue to serve the commission district until a successor is appointed and qualified; except that, following each apportionment, the member shall continue to serve at large until the metropolitan council appoints eight commission members as provided under subdivision 2, to serve terms as provided under this subdivision. The appointments to the commission must be made by the first Monday in May of the year in which the term ends.

Subd. 5. **Vacancies; removal.** If the office of any commission member or the chair becomes vacant, the vacancy shall be filled by appointment in the same manner the original appointment was made. Members, other than the chair, may be removed by the council only for cause. The chair may be removed at the pleasure of the council.

Subd. 6. **Compensation.** Members and the chair shall be paid \$50 for each day when the member or chair attends one or more meetings, or provides other services, as authorized by the commission, and shall be reimbursed for all actual and necessary expenses incurred in the performance of duties.

History: 1975 c 13 s 45; 1977 c 421 s 8; 1983 c 16 s 9-13; 1986 c 444; 1986 c 460 s 32-34; 1987 c 278 s 10; 1994 c 628 art 3 s 53-58

473.313 MASTER PLANS.

Subdivision 1. **Adoption.** Each park district located wholly or partially within the metropolitan area, and each county in the metropolitan area not wholly within a park district, shall prepare, after consultation with all affected municipalities, and submit to the metropolitan council, and from time to time revise and resubmit to the council, a master plan and annual budget for the acquisition and development of regional recreation open space located within the district or county, consistent with the council's policy plan.

Subd. 2: **Council review.** The metropolitan council shall review with the advice of the commission, each master plan to determine whether it is consistent with the council's policy

plan. If it is not consistent, the council shall return the plan with its comments to the municipalities, park district or county for revision and resubmittal.

History: 1975 c 13 s 46

473.315 GRANTS FOR RECREATION OPEN SPACE.

Subdivision 1. To metro local governments. The metropolitan council with the advice of the commission may make grants, from any funds available to it for recreation open space purposes, to any municipality, park district or county located wholly or partially within the metropolitan area to cover the cost, or any portion of the cost, of acquiring or developing regional recreation open space in accordance with the policy plan; and all such agencies may enter into contracts for this purpose or rights or interests therein. The cost of acquisition shall include any payments required for relocation pursuant to sections 117.50 to 117.56.

Subd. 2. Immediate grants. In order to avoid further delays in acquisition and development of regional recreational open spaces heretofore identified by the council and within existing metropolitan development guidelines, the metropolitan council is authorized to immediately make grants to acquire or develop such areas. The existing development guide sections on regional recreation open space shall continue in force and effect and shall constitute the policy plan until the adoption of revisions or modifications pursuant to section 473.147.

History: 1975 c 13 s 47; 1977 c 421 s 9

473.325 SALES OF G.O. REFUNDING BONDS.

Subdivision 1. Up to \$40,000,000 outstanding. The metropolitan council may by resolution authorize the issuance of general obligation bonds of the council such that the amount outstanding and undischarged at any time shall not exceed \$40,000,000, for which its full faith and credit and taxing powers shall be pledged, for the acquisition and betterment of regional recreation open space in accordance with sections 473.301 to 473.341. The metropolitan council may also issue general obligation bonds for the purpose of refunding outstanding obligations issued hereunder. 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 shall such refunding bonds be included in computing the amount of bonds that may be issued within such dollar limitation.

Subd. 2. Chapter 475 applies; exceptions. 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 terms of each series of bonds shall be fixed so that the amount of principal and interest on all outstanding and undischarged bonds, together with the bonds proposed to be issued, due in any year shall not exceed 0.01209 percent of market value of all taxable property in the metropolitan area as last finally equalized prior to a proposed issue. 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, shall be spread against all taxable property in the metropolitan area and shall not be subject to limitation as to rate or amount. Any taxes certified by the council to the county auditors for collection shall be reduced by the amount received by the council from the commissioner of finance or the federal government for the purpose of paying the principal and interest on bonds to which the levy relates. The council shall certify the fact and amount of all money so received to the county auditors, and the auditors shall reduce the levies previously made for the bonds in the manner and to the extent provided in section 475.61, subdivision 3.

Subd. 3. Temporary loans. The metropolitan council shall have the power, after the authorization of bonds pursuant to this section, to provide funds immediately required for the purposes of sections 473.301 to 473.341, by effecting temporary loans upon such terms as it shall by resolution determine, evidenced by notes due in not exceeding 24 months from the date thereof, payable to the order of the lender or to the bearer, to be repaid with interest from the proceeds of such bonds when issued and delivered to the purchaser thereof. Such temporary loans may be made without public advertisement.

Subd. 4. Full faith, credit switch. In the event that the full faith and credit pledge of the metropolitan council for the payment of principal and interest on the bonds issued under this section is superseded and replaced by the full faith and credit pledge of the state of Minnesota, by binding and irrevocable legislation, such action shall extinguish the full faith and credit pledge theretofore made for all bonds and the interest thereon issued pursuant to this section.

Subd. 5. [Repealed, 1994 c 628 art 3 s 209]

History: 1975 c 13 s 48; 1988 c 719 art 5 s 84; 1989 c 277 art 4 s 72

473.326 COMO PARK ZOO BONDS.

Subdivision 1. Up to \$2,300,000. Subject to the provisions of subdivision 2, the metropolitan council shall by resolution authorize the issuance of general obligation bonds of the council in an aggregate principal amount not exceeding \$2,300,000, in addition to the amount authorized under the provisions of section 473.325. The proceeds shall be used by the council for grants to the city of St. Paul for the repair, construction, reconstruction, improvement, and rehabilitation of the Como Park zoo owned and operated by the city. The bonds shall be sold, issued, and secured as provided in section 473.325, and the terms of each series thereof shall be fixed so that the annual principal and interest payments thereon, together with those on all outstanding and undischarged bonds issued pursuant to section 473.325, will not exceed the limit provided in that section.

Subd. 2. Contingent on plan conformity. The city council shall cause to be prepared, approve, and submit to the metropolitan council plans for any work for which a grant is requested. The metropolitan council shall determine whether the plans are consistent with Ramsey county's master plan and the metropolitan council's policy plan for regional recreation open space. If not, or if the determination cannot be made on the basis of the plans as submitted, they shall be returned with comments to the city council for revision and resubmission. No bonds shall be issued under this section until the plans for the work to be financed thereby are approved by the metropolitan council.

Subd. 3. Reappropriated state funds. Of any state funds reappropriated to the metropolitan council for use for the acquisition and betterment of regional recreation open space, at least \$1,400,000 shall be used by the council for grants to the city of St. Paul for the repair, construction, reconstruction, improvement, and rehabilitation of the Como Park zoo.

Subd. 4. City's ownership, management. No grant made under this section shall affect the city's ownership of or power to manage and operate the zoo, in a manner consistent with the master plan and policy plan.

History: 1977 c 436 s 1

473.331 LOCAL ACQUISITION.

Any park district or municipality wholly or partially within the metropolitan area, and any county in the metropolitan area not wholly within a park district, may acquire, develop and manage any land or water area, or any interests, easements or other rights therein, comprising regional recreation open space in the same manner as it is authorized to do for other park and recreation purposes, and such area or other rights shall constitute a part of the park and recreation system of the acquiring agency.

History: 1975 c 13 s 49

473.333 COUNCIL ACQUISITION.

The metropolitan council shall have the same powers as a county under section 398.32, subdivision 1, to acquire any land or water area, or any interests, easements or other rights therein, which are included in the policy plan whenever such areas have not been acquired for recreation open space purposes within the period of time hereinafter specified; provided that the council shall not have the power of eminent domain. Before proceeding with the acquisition of any such area or other rights, the council shall by resolution offer a grant covering the full cost of acquisition to the municipality, park district or county in which the area or other rights are situated. If the acquisition process has not been initiated within 60 days or if the area or other rights have not been acquired within 12 months after the adoption of the resolu-

tion, the council may by resolution offer such a grant to another park district or county or to a municipality in the metropolitan area. If the acquisition process has not been initiated within 60 days or if the area or other rights have not been acquired within six months after the adoption of the resolution, the council may direct the commission to proceed with acquisition. The council may, in its discretion, direct the commission to contract with a municipality, park district or county for such services as may be needed to complete such acquisition. The council shall direct the commission to manage such areas so as to preserve them for future recreation open space purposes and may contract with a municipality, park district or county for such management. The council shall convey such areas to a municipality, park district or county for development and operation consistent with an approved recreation open space master plan.

History: 1975 c 13 s 50

473.334 SPECIAL ASSESSMENT; AGREEMENT.

Subdivision 1. **Generally.** In determining the special benefit received by regional recreation open space system property as defined in sections 473.301 to 473.351 from an improvement for which a special assessment is determined, the governing body shall not consider any use of the property other than as regional recreation open space property at the time the special assessment is determined. The metropolitan council shall not be bound by the determination of the governing body of the city but may pay a lesser amount, as agreed upon by the metropolitan council and the governing body of the city, as they determine is the measure of benefit to the land from the improvement.

Subd. 2. **Exception.** This section does not apply to Otter-Bald Eagle lake regional park property in the town of White Bear, Ramsey county, which shall continue to be governed by section 435.19.

History: 1993 c 375 art 17 s 19

473.341 TAX EQUIVALENTS.

In the year in which the metropolitan council or an implementing agency as defined in section 473.351 acquires fee title to any real property included in the regional recreation open space system, the metropolitan council shall grant sufficient funds to the appropriate implementing agency to make the tax equivalent payment required in this section. The council shall determine the total amount of property taxes levied on the real property for municipal or township purposes for collection in the year in which title passed. The municipality or township in which the real property is situated shall be paid 180 percent of the total tax amount determined by the council. If the implementing agency has granted a life estate to the seller of the real property and the seller is obligated to pay property taxes on the property, this tax equivalent shall not be paid until the life estate ends. All amounts paid pursuant to this section are costs of acquisition of the real property acquired.

History: 1975 c 13 s 51; 1994 c 587 art 5 s 23

473.351 METROPOLITAN AREA REGIONAL PARKS FUNDING.

Subdivision 1. **Definitions.** The definitions in this subdivision apply to this section.

(a) "Implementing agency" means the counties of Anoka, Washington, Ramsey, Scott, Carver, Dakota, the city of St. Paul, the city of Bloomington, the Minneapolis park and recreation board, and the Hennepin county park reserve district.

(b) "Operation and maintenance expenditures" means the cost of providing for the operation and maintenance of waters, lands, and facilities that are a part of the metropolitan area regional park and open space system, including but not limited to, the provision of fire, police, maintenance, forestry, rehabilitation expenses pertaining to routine care, and the allocation of the administrative overhead costs of the regional park and open space systems.

(c) "Operation and maintenance money" means money appropriated by the legislature to the commissioner of trade and economic development for distribution by the metropolitan council.

(d) "Regional recreation open space systems" means those parks that have been designated by the metropolitan council under section 473.145.

Subd. 2. Metropolitan council obligation. Annually before August 1 the metropolitan council shall distribute grant money received from the commissioner of natural resources to fund the operation and maintenance expenditures of the implementing agencies for the operation and maintenance of regional park and open space systems. The metropolitan council shall annually report to the legislature the amount distributed to each implementing agency and its estimate of the percentage of operation and maintenance expenditures paid for with operation and maintenance money.

Subd. 3. Allocation formula. By July 1 of every year each implementing agency must submit to the metropolitan parks and open space commission a statement of the next annual anticipated operation and maintenance expenditures of the regional recreation open space parks systems within their respective jurisdictions and the previous year's actual expenditures. After reviewing the actual expenditures submitted and by July 15 of each year, the parks and open space commission shall forward to the metropolitan council the funding requests from the implementing agencies based on the actual expenditures made. The metropolitan council shall distribute the operation and maintenance money as follows:

(1) 40 percent based on the use that each implementing agency's regional recreation open space system has in proportion to the total use of the metropolitan regional recreation open space system;

(2) 40 percent based on the operation and maintenance expenditures made in the previous year by each implementing agency in proportion to the total operation and maintenance expenditures of all of the implementing agencies; and

(3) 20 percent based on the acreage that each implementing agency's regional recreation open space system has in proportion to the total acreage of the metropolitan regional recreation open space system. The 80 percent natural resource management land acreage of the park reserves must be divided by four in calculating the distribution under this clause.

Each implementing agency must receive no less than 40 percent of its actual operation and maintenance expenses to be incurred in the current calendar year budget as submitted to the parks and open space commission. If the available operation and maintenance money is less than the total amount determined by the formula including the preceding, the implementing agencies will share the available money in proportion to the amounts they would otherwise be entitled to under the formula.

Subd. 4. Implementing agency control. This section does not affect, change, alter, transfer, or modify the governance, administration, jurisdiction, or control of the implementing agencies over the parks, water, lands, and facilities they presently or in the future may administer, govern, or control, nor the employment relationship between the implementing agencies and their present and future employees.

Subd. 5. [Repealed, 1987 c 404 s 191]

Subd. 6. Restriction. A metropolitan area regional park receiving grant money for maintenance and operation costs must agree:

(1) to sell or promote licenses, passes, or registrations required to engage in recreational activities appropriate to the park or the site of the park when a building on the park site is staffed and open to the public; and

(2) to provide drinking water supplies adequate for the recreational uses of the park. Each implementing agency must consult with groups representing users of its parks to determine the adequacy of drinking water supplies.

History: 1Sp1985 c 13 s 355; 1987 c 312 art 1 s 26 subd 2; 1987 c 404 s 177; 1993 c 172 s 83

TRANSIT

473.371 POLICY; GOALS.

Subdivision 1. Policy. The legislature finds that, for the provision of essential mobility and transportation options in the metropolitan area, for the encouragement of alternatives to the single-occupant vehicle and for the development of transportation service designed to

meet public needs efficiently and effectively, there is a need for the creation of transit programs in the metropolitan area.

Subd. 2. **Goals.** The goals of sections 473.371 to 473.449 are as follows:

(a) to provide, to the greatest feasible extent, a basic level of mobility for all people in the metropolitan area;

(b) to arrange to the greatest feasible extent for the provision of a comprehensive set of transit and paratransit services to meet the needs of all people in the metropolitan area;

(c) to cooperate with private and public transit providers to assure the most efficient and coordinated use of existing and planned transit resources; and

(d) to maintain public mobility in the event of emergencies or energy shortages.

History: 1984 c 654 art 3 s 115; 1994 c 628 art 3 s 59

473.373 [Repealed, 1994 c 628 art 3 s 209]

473.375 POWERS OF COUNCIL.

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

Subd. 5. [Repealed, 1994 c 628 art 3 s 209]

Subd. 6. [Repealed, 1994 c 628 art 3 s 209]

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

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

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.

Subd. 10. [Repealed, 1994 c 628 art 3 s 209]

Subd. 11. **Ridesharing.** The council shall administer a ridesharing program in the metropolitan area, except for the statewide vanpool leasing program conducted by the commissioner of transportation and shall cooperate with the commissioner in the conduct of ridesharing activities in areas where the commissioner's programs and the council's program overlap. The council shall establish a rideshare advisory committee to advise it in carrying out the program. The council may contract for services in operating the program.

Subd. 12. **Assistance.** The council shall offer, use, and apply its services to assist and advise transit providers in the metropolitan transit area in the planning, promotion, development, operation, and evaluation of programs and projects which are undertaken or proposed to be undertaken by contract with the council, and shall seek out and select recipients of this assistance and advice.

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.

Subd. 14. **Coordination.** The council shall coordinate transit operations within the metropolitan area and shall establish a transit information program to provide transit users with accurate information on transit schedules and service.

Subd. 15. **Performance standards.** The council may establish performance standards for recipients of financial assistance.

Subd. 16. [Repealed, 1994 c 628 art 3 s 209]

Subd. 17. [Repealed, 1994 c 628 art 3 s 209]

Subd. 18. [Repealed, 1994 c 628 art 3 s 209]

History: 1984 c 654 art 3 s 117; ISp1985 c 10 s 96,97; 1988 c 675 s 14-16; 1989 c 335 art 4 s 91; 1989 c 339 s 9,10; 1991 c 326 s 23; 1994 c 605 art 1 s 1; 1994 c 628 art 3 s 62-66; 1995 c 236 s 7,8

473.377 [Repealed, 1994 c 628 art 3 s 209]

473.38 [Repealed, 1994 c 628 art 3 s 209]

473.382 LOCAL PLANNING AND DEVELOPMENT PROGRAM.

The council shall establish a program to ensure participation by representatives of local government units and the coordination of the planning and development of transit by local government units. The council shall encourage the establishment of local transit planning and development boards by local governments for the purpose of:

- (a) identifying service needs and objectives;
- (b) preparing, or advising and assisting local units of government in preparing the transit study and service plan required by section 473.384;
- (c) preparing or advising the council in the review of applications for assistance under section 473.384.

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

History: 1984 c 654 art 3 s 120; 1994 c 628 art 3 s 68

473.384 CONTRACTS.

Subdivision 1. Contracts required. The council shall make contracts with eligible recipients for financial assistance to transit service within the metropolitan area. The council may not give financial assistance to another transit provider without first having executed a contract. The provisions of this section do not apply to contracts made under sections 473.386 and 473.388.

Subd. 2. Eligibility. To be eligible to receive financial assistance by contract under this section a recipient must be:

- (a) a county, statutory or home rule charter city or town or combination thereof, or public authority organized and existing pursuant to chapter 398A, providing financial assistance to or providing or operating public transit; or
- (b) a private provider of public transit.

Subd. 3. Applications. The council shall establish procedures and standards for review and approval of applications for financial assistance under this section. An applicant must provide the council with the financial and other information the council requires to carry out its duties. The council may specify procedures, including public hearing requirements, to be followed by applicants that are cities, towns, or counties or combinations thereof in conducting transit studies and formulating service plans under subdivisions 4 and 5.

Subd. 4. Transit study. The council shall require that prior to applying for financial assistance by contract under clause (a) of subdivision 2, the applicant must prepare and submit a transit study which includes the following elements:

- (a) a determination of existing and future transit needs within the area to be served, and an assessment of the adequacy of existing service to meet the needs;
- (b) an assessment of the level and type of service required to meet unmet needs;
- (c) an assessment of existing and future resources available for the financing of transit service; and
- (d) the type or types of any new government arrangements or agreements needed to provide adequate service.

The transit study for any applicant may be done by the council.

Subd. 5. Service plan. The council shall, before making a contract with an eligible recipient, require the submission of a service plan which includes the following elements:

- (a) a description of the service proposed for financial assistance, including vehicles, routes, and schedules;

(b) an assessment of the extent to which the proposed service meets the needs as determined by the transit study;

(c) a description of the contract administration and review process if the operation of the proposed service is to be done by a private contractor;

(d) a description of the amount required to establish and operate the proposed service and the proposed sources of the required amount including operating revenue, other local sources, and assistance from the council and from federal sources;

(e) the fare structure of the proposed service; and

(f) projections of usage of the system.

The council may specify procedures, including public hearing requirements, to be followed by applicants that are cities, towns, or counties or combinations thereof in conducting transit studies and formulating service plans.

Subd. 6. Financial assistance for certain providers. The council shall provide financial assistance to recipients who were receiving assistance by contract with the commissioner of transportation under Minnesota Statutes 1982, section 174.24, subdivision 3 on July 1, 1984, so that the percentage of total operating cost, as defined by the council, paid by the recipient from all local sources of revenue, including operating revenue, does not exceed the percentage for the recipient's classification as determined by the commissioner of transportation under the commissioner's final contract with the recipient. The council may include funds received under section 473.446, subdivision 1a, as a local source of revenue. The remainder of the total operating cost will be paid by the council less all assistance received by the recipient for that purpose from any federal source.

If a recipient informs the council in writing prior to the distribution of financial assistance for any year that paying its designated percentage of total operating cost from local sources will cause undue hardship, the council may adjust the percentage as it deems equitable. If for any year the funds available to the council are insufficient to allow the council to pay its share of total operating cost for those recipients, the council shall reduce its share in each classification to the extent necessary.

Subd. 7. Transit operations impact assessment. Prior to entering into a contract for operating assistance with a recipient, the council shall evaluate the effect, if any, of the contract on the ridership, routes, schedules, fares, and staffing levels of the existing and proposed service provided by the council. The council may enter into the contract only if it determines that the service to be assisted under the contract will not impose an undue hardship on the ridership or financial condition of the council's transit operations. The requirements of this subdivision do not apply to contracts for assistance to recipients who, as part of a negotiated cost-sharing arrangement with the council, pay a substantial part of the cost of services that directly benefit the recipient as an institution or organization.

Subd. 8. Paratransit contracts. In executing and administering contracts for paratransit projects, the council has the powers and duties given to the commissioner of transportation in section 174.255, subdivisions 1 and 2 relating to handicapped accessibility and insurance coverage. The provisions of section 174.255, subdivision 3, apply to paratransit projects which receive assistance by contract with the council.

Subd. 9. [Repealed, 1994 c 628 art 3 s 209]

History: 1984 c 654 art 3 s 121; 1985 c 248 s 60; 1Sp1985 c 10 s 99; 1986 c 444; 1989 c 269 s 47; 1994 c 628 art 3 s 69-75

473.385 TRANSIT SERVICE AREAS.

Subdivision 1. Definitions. (a) "Fully developed service area" means the fully developed area, as defined in the metropolitan council's development guide, plus the cities of Mendota Heights, Maplewood, North St. Paul, and Little Canada.

(b) "Regular route transit" has the meaning given it in section 174.22, subdivision 8, except that, for purposes of this section, the term does not include services on fixed routes and schedules that are primarily intended to provide circulator service within a community or adjacent communities rather than feeder service to the system of metropolitan regular route transit operated by the council.

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: 1989 c 339 s 11; 1994 c 628 art 3 s 76; 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 pro-

vide 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.

Subd. 2a. Eligibility certification. The council shall include the notice of penalty for fraudulent certification, and require the person certifying the applicant to sign the eligibility certification form and the applicant to sign the application form, as provided in section 174.295.

Subd. 3. Duties of council. In implementing the special transportation service, the council shall:

(a) encourage participation in the service by public, private, and private nonprofit providers of special transportation currently receiving capital or operating assistance from a public agency;

(b) contract with public, private, and private nonprofit providers that have demonstrated their ability to effectively provide service at a reasonable cost;

(c) encourage individuals using special transportation to use the type of service most appropriate to their particular needs;

(d) ensure that all persons providing special transportation service receive equitable treatment in the allocation of the ridership;

(e) encourage shared rides to the greatest extent practicable;

(f) encourage public agencies that provide transportation to eligible individuals as a component of human services and educational programs to coordinate with this service and to allow reimbursement for transportation provided through the service at rates that reflect the public cost of providing that transportation;

(g) establish criteria to be used in determining individual eligibility for special transportation services;

(h) consult with the transportation accessibility advisory committee in a timely manner before changes are made in the provision of special transportation services, including, but not limited to, changes in policies affecting the matters subject to hearing under subdivision 2;

(i) provide for effective administration and enforcement of council policies and standards; and

(j) annually evaluate providers of special transportation service to ensure compliance with the standards established for the program.

Subd. 4. Coordination required. The council may not grant any financial assistance to any recipient that proposes to use any part of the grant to provide special transportation service in the metropolitan area unless the program is coordinated with the council's special transportation service in the manner determined by the council. The council is not required to provide funding for transportation services from a residence to a service site and home again when the services are used by individuals in conjunction with their participation in human service developmental achievement center programs in which transportation to and from the program is a required and funded component of those programs.

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.

Subd. 6. Operating and service standards. A person operating or assisting the operation of a vehicle may leave the vehicle to enter premises in order to help a passenger who does not require emergency ambulance service. Operators and assistants shall provide the help necessary for door-through-door service, including help in entering and leaving the vehicle and help through the exterior entrance and over any exterior steps at either departure or destination buildings, provided that both the steps and the wheelchair are in good repair. If an

operator or assistant refuses help because of the condition of the steps or the wheelchair, the operator of the service shall send letters to the service administrator designated by the council, who shall notify the person denied service describing the corrective measures necessary to qualify for service.

Subd. 7. [Repealed, 1987 c 88 s 13]

History: 1984 c 654 art 3 s 122; 1Sp1985 c 10 s 100; 1986 c 444; 1987 c 88 s 8-12; 1987 c 354 s 8; 1989 c 269 s 48; 1992 c 390 s 1,2; 1993 c 326 art 4 s 12; 1994 c 628 art 3 s 77-83,211; 1995 c 236 s 10-12

473.387 SPECIAL TRANSPORTATION MARKETS.

Subdivision 1. **Purposes.** The legislature finds and declares that the limited public resources available to subsidize transit require increased efforts to concentrate service and funding on special sectors of the marketplace, so as to ensure a basic level of mobility for all persons in the metropolitan area. The purposes of the programs established by this section are to better target transit services and expenditures on transit dependent sectors of the market and to increase the efficiency and effectiveness and control the cost of transit services for persons who lack private means of transportation.

Subd. 2. **Administration.** The council shall design and administer the programs under this section. The council may request proposals for projects to demonstrate methods of achieving the purposes of programs administered under this section. The council shall design or ensure the design of programs that will provide better access for the targeted service groups to places of employment and activity throughout the metropolitan area, using regular route transit, paratransit, taxis, car or van pools, or other means of conveyance. The council may organize the services by providing to individuals, directly or indirectly, reduced fares or passes on public transit or vouchers to be used to purchase transportation; by contracting with public and private providers; by arrangements with government agencies, civic and community organizations or nonprofit groups providing assistance to the targeted service groups; by arrangements with prospective employers, with employment, education, retail, medical, or other activity centers, or with local governments; or by any other methods designed to improve service and reduce costs to the targeted service groups.

Subd. 3. **Jobseekers.** The council shall establish a program and policies to increase the availability and utility of public transit services and reduce transportation costs for persons who are seeking employment and who lack private means of transportation.

Subd. 4. **Transit disadvantaged.** The council shall establish a program and policies to reduce transportation costs for persons who are, because of limited incomes, age, disability, or other reasons, especially dependent on public transit for common mobility.

History: 1Sp1985 c 10 s 101; 1994 c 628 art 3 s 84-86

473.3875 TRANSIT FOR LIVABLE COMMUNITIES.

The council shall establish a transit for livable communities demonstration program fund. The council shall adopt guidelines for selecting and evaluating demonstration projects for funding. The selection guidelines must include provisions evaluating projects:

- (1) interrelating development or redevelopment and transit;
- (2) interrelating affordable housing and employment growth areas;
- (3) helping intensify land use that leads to more compact development or redevelopment;
- (4) coordinating school transportation and public transit service;
- (5) implementing recommendations of the transit redesign plan; or
- (6) otherwise promoting the goals of the metropolitan livable communities act.

History: 1996 c 464 art 2 s 3

473.388 REPLACEMENT SERVICE PROGRAM.

Subdivision 1. **Program established.** A replacement service program is established to continue the metropolitan transit service demonstration program established in Minnesota Statutes 1982, section 174.265, as provided in this section.

Subd. 2. Replacement service; eligibility. The council may provide assistance under the program to a statutory or home rule charter city or town or combination thereof, that:

- (a) is located in the metropolitan transit taxing district;
- (b) is not served by the council bus service or is served only with council bus routes which begin or end within the applying city or town or combination thereof; and
- (c) has fewer than four scheduled runs of council bus service during off-peak hours defined in section 473.408, subdivision 1.

Eligible cities or towns or combinations thereof may apply on behalf of a transit operator with whom they propose to contract for service.

The council may not provide assistance under this section to a statutory or home rule charter city or town unless the city or town,

(i) was receiving assistance under Minnesota Statutes 1982, section 174.265 by July 1, 1984,

(ii) had submitted an application for assistance under that section by July 1, 1984, or

(iii) had submitted a letter of intent to apply for assistance under that section by July 1, 1984, and submits an application for assistance under this section by July 1, 1988. A statutory or home rule charter city or town has an additional 12-month extension if it notified the former regional transit board before July 1, 1988, that the city or town is in the process of completing a transportation evaluation study that includes an assessment of the local transit needs of the city or town.

Subd. 3. Application for assistance. An application for assistance under this section must:

(a) describe the existing service provided to the applicant by the council, including the estimated number of passengers carried and the routes, schedules, and fares;

(b) describe the transit service proposed for funding under the demonstration program, including the anticipated number of passengers and the routes, schedules, and fares; and

(c) indicate the total amount of available local transit funds, the portion of the available local transit funds proposed to be used to subsidize replacement services, and the amount of assistance requested for the replacement services.

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.

Subd. 5. Other assistance. A city or town receiving assistance or levying a transit tax under this section may also receive assistance from the council under section 473.384. In applying for assistance under that section an applicant must describe the portion of its available local transit funds or local transit taxes which are not obligated to subsidize its replacement transit service and which the applicant proposes to use to subsidize additional service. An applicant which has exhausted its available local transit funds or local transit taxes may use any other local subsidy funds to complete the required local share.

Subd. 6. [Repealed, 1994 c 628 art 3 s 209]

Subd. 7. Local levy option. (a) A statutory or home rule charter city or town that is eligible for assistance under this section, in lieu of receiving the assistance, may levy a tax for payment of the operating and capital expenditures for transit and other related activities and to provide for payment of obligations issued by the municipality for such purposes, provided that the tax must be sufficient to maintain the level of transit service provided in the municipality in the previous year.

(b) The transit tax revenues derived by the municipality may not exceed:

(1) for the first transit levy year and any subsequent transit levy year immediately following a year in which the municipality declines to make the levy, the maximum available local transit funds for the municipality for taxes payable in the current year under section 473.446, calculated as if the percentage of transit tax revenues for the municipality were 88 percent instead of 90 percent, and multiplied by the municipality's market value adjustment ratio; and

(2) for taxes levied in any year that immediately follows a year in which the municipality elects to levy under this subdivision, the maximum transit tax that the municipality may have levied in the previous year under this subdivision, multiplied by the municipality's market value adjustment ratio.

The commissioner of revenue shall certify the municipality's levy limitation under this subdivision to the municipality by June 1 of the levy year. The tax must be accumulated and kept in a separate fund to be known as the "replacement transit fund."

(c) To enable the municipality to receive revenues described in clauses (2) and (3) of the definition of "tax revenues" in subdivision 4, that would otherwise be lost if the municipality's transit tax levy was not treated as a successor levy to that made by the council under section 473.446:

(1) in the first transit levy year and any subsequent transit levy year immediately following a year in which the municipality declined to make the levy, 88 percent of the council's nondebt spread levy for the current taxes payable year shall be treated as levied by the municipality, and not the council, for purposes of section 473F.08, subdivision 3, for the purpose of determining its local tax rate for the preceding year; and

(2) 88 percent of the revenues described in clause (3) of the definition of "tax revenues" in subdivision 4, payable in the first transit levy year, or payable in any subsequent transit levy year following a year in which a municipality declined to make the levy, shall be permanently transferred from the council to the municipality. If a municipality levies a tax under this subdivision in one year, but declines to levy in a subsequent year, the aid transferred under this clause shall be transferred back to the council.

(d) Any transit taxes levied under this subdivision are not subject to, or counted towards, any limit hereafter imposed by law on the levy of taxes upon taxable property within any municipality unless the law specifically includes the transit tax.

(e) This subdivision is consistent with the transit redesign plan. Eligible municipalities opting to levy the transit tax under this subdivision shall continue to meet the regional performance standards established by the council.

(f) Within the designated Americans with Disabilities Act area, metro mobility remains the obligation of the state.

(g) For purposes of this subdivision, "transit levy year" is any year in which the municipality elects to levy under this subdivision.

(h) A municipality may not levy taxes under this subdivision in any year unless it notifies the council and the commissioner of revenue of its intent to levy before July 1 of the levy

year. The notification must include the amount of the municipality's proposed transit tax for the current levy year.

Subd. 8. Service incentive. A replacement transit service shall receive an additional two percent of available local transit funds, as defined in subdivision 4, if the service increased its ridership for trips that originate outside of the replacement transit service's member communities and serve the employment centers in those communities by at least five percent from the previous year, provided the service operates within regional performance standards. A replacement transit service that is receiving the maximum amount of available local transit funds may receive up to two percent over the maximum amount set in subdivision 4 if it increases its ridership as provided in this subdivision. The additional funding received under this subdivision may be reserved by the replacement transit service for future use.

History: 1984 c 654 art 3 s 123; 1986 c 444; 1987 c 278 s 16; 1992 c 511 art 2 s 36; 1994 c 628 art 3 s 87-90; 1995 c 236 s.13; 1996 c 455 art 5 s 3,4; 1996 c 464 art 2 s 4

473.39 BORROWING MONEY.

Subdivision 1. General authority. The council may issue general obligation bonds subject to the volume limitations in this section to provide funds to implement the council's transit capital improvement program and may issue general obligation bonds not subject to the limitations for the refunding of outstanding bonds or certificates of indebtedness of the council, the former regional transit board or the former metropolitan transit commission, and judgments against the former regional transit board or the former metropolitan transit commission or the council. The council may not issue obligations pursuant to this subdivision, other than refunding bonds, in excess of the amount specifically authorized by law. Except as otherwise provided in sections 473.371 to 473.449, the council shall provide for the issuance, sale, and security of the bonds in the manner provided in chapter 475, and has the same powers and duties as a municipality issuing bonds under that law, except that no election is required and the net debt limitations in chapter 475 do not apply to the bonds. The obligations are not a debt of the state or any municipality or political subdivision within the meaning of any debt limitation or requirement pertaining to those entities. Neither the state, nor any municipality or political subdivision except the council, nor any member or officer or employee of the council, is liable on the obligations. The obligations may be secured by taxes 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, clause (c). As part of its levy made under section 473.446, subdivision 1, clause (c), the council shall levy the amounts necessary to provide full and timely payment of the obligations and transfer the proceeds to the appropriate council account for payment of the obligations. The taxes must be levied, certified, and collected in accordance with the terms and conditions of the indebtedness.

Subd. 1a. Obligations. (a) After August 1, 1989, the council may issue certificates of indebtedness, bonds, or other obligations under this section in an amount not exceeding \$30,700,000 for transit financial assistance, as prescribed in the council's capital improvement program.

(b) As a condition of the use of transit financial assistance under this section, the council must make the transit facilities it constructs, acquires, or improves for I-394 with funds provided under this section available to all transit providers on a nondiscriminatory basis, as the council defines these terms.

(c) The limitation contained in this subdivision does not apply to refunding bonds issued by the council.

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 and paratransit fleet replacement, transit and paratransit facilities, and transit and paratransit 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. 1c. **Obligations; 1996–1998.** In addition to the authority in subdivisions 1a and 1b, the council may issue certificates of indebtedness, bonds, or other obligations under this section in an amount not exceeding \$20,500,000 which may be used for capital expenditures as prescribed in the council's transit capital improvement program and for related costs, including the costs of issuance and sale of the obligations.

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.

Subd. 3. [Repealed, 1Sp1985 c 10 s 123 subd 1]

Subd. 4. **Transit capital improvement program.** The council may not issue obligations pursuant to this section until the council adopts a three-year transit capital improvement program. The program must include a capital investment component that sets forth a capital investment strategy and estimates the fiscal and other effects of the strategy. The component must specify, to the extent practicable, the capital improvements to be undertaken. For each improvement specified, the program must describe: (1) need, function, objective, and relative priority; (2) alternatives, including alternatives not involving capital expenditures; (3) ownership and operating entity; (4) location and schedule of development; (5) environmental, social, and economic effects; (6) cost; (7) manner of finance and revenue sources, including federal and state funds, private funds, taxes, and user charges; and (8) fiscal effects, including an estimate of annual operating costs and sources of revenue to pay the costs.

History: 1984 c 654 art 3 s 124; 1Sp1985 c 10 s 102–104; 1986 c 460 s 39,40; 1987 c 278 s 17,18; 1987 c 358 s 120; 1989 c 283 s 1; 1992 c 579 s 1; 1994 c 605 art 2 s 1; 1994 c 628 art 3 s 91–94; 1995 c 202 art 1 s 25; 1995 c 236 s 14; 1996 c 471 art 13 s 20,21

473.391 ROUTE PLANNING AND SCHEDULING.

Subdivision 1. **Contracts.** 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.

Subd. 2. **Route elimination; service reduction.** The council shall, before making a determination to eliminate or reduce service on existing transit routes, consider:

- (1) the level of subsidy per passenger on each route;
- (2) the availability and proximity of alternative transit routes; and
- (3) the percentage of transit dependent riders, including youth, elderly, low-income, and disabled riders currently using each route.

History: 1987 c 278 s 22; 1994 c 628 art 3 s 95; 1995 c 265 art 1 s 2; 1996 c 464 art 2 s 5

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. Laws 1995, chapter 264, article 3, section 52.

473.392 SERVICE BIDDING.

The council may competitively bid transit service only in accordance with standards, procedures, and guidelines adopted by resolution of the council. The council shall establish a project management team to assist and advise the council in developing and implementing standards, procedures, and guidelines. The project management team must include representatives of the Amalgamated Transit Union Local 1005, private operators, local governments, and other persons interested in the subject. At least 60 days before adopting any standards, procedures, or guidelines for competitive bidding of transit service, the council shall hold a public hearing on the subject. The council shall publish notice of the hearing in newspapers of general circulation in the metropolitan area not less than 15 days before the hearing. At the hearing all interested persons must be afforded an opportunity to present their views orally and in writing. Following the hearing, and after considering the testimony, the council shall revise and adopt the standards, procedures, and guidelines.

History: 1987 c 278 s 23; 1994 c 628 art 3 s 96

473.393 [Repealed, 1988 c 675 s 24]

473.394 [Repealed, 1995 c 236 s 21]

473.398 [Repealed, 1989 c 339 s 24]

473.399 LIGHT RAIL TRANSIT; REGIONAL PLAN.

Subdivision 1. General requirements. (a) The council shall adopt a regional light rail transit plan to ensure that light rail transit facilities in the metropolitan area will be acquired, developed, owned, and capable of operation in an efficient, cost-effective, and coordinated manner as an integrated and unified system on a multicounty basis in coordination with buses and other transportation modes and facilities. To the extent practicable, the council shall incorporate into its plan appropriate elements of the plans of regional railroad authorities in order to avoid duplication of effort.

(b) The regional plan required by this section must be adopted by the council before the commissioner of transportation may begin construction of light rail transit facilities and before the commissioner may expend funds appropriated or obtained through bonding for constructing light rail transit facilities. Following adoption of the regional plan, each regional railroad authority and the commissioner of transportation shall act in conformity with the plan. The commissioner shall prepare or amend the final design plans as necessary to make the plans consistent with the regional plan.

(c) Throughout the development and implementation of the plan, the council shall contract for or otherwise obtain engineering services to assure that the plan adequately addresses the technical aspects of light rail transit.

Subd. 2. [Repealed, 1993 c 353 s 20]

Subd. 3. [Repealed, 1993 c 353 s 20]

History: 1989 c 339 s 12; 1993 c 353 s 5; 1994 c 628 art 3 s 98

473.3991 [Repealed, 1993 c 353 s 20]**473.3993 LIGHT RAIL TRANSIT FACILITY PLANS; DEFINITIONS.**

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

Subd. 2. **Preliminary design plan.** "Preliminary design plan" means a light rail transit plan that identifies:

(1) preliminary plans for the physical design of facilities, including location, length, and termini of routes; general dimension, elevation, alignment, and character of routes and crossings; whether the track is elevated, on the surface, or below ground; approximate station locations; and related park and ride, parking, and other transportation facilities; and a plan for handicapped access; and

(2) preliminary plans for intermodal coordination with bus operations and routes; ridership; capital costs; operating costs and revenues, and sources of funds for operating subsidies; funding for final design, construction, and operation; and an implementation method.

The preliminary design plan includes the preliminary or draft environmental impact statement for the light rail transit facilities proposed.

Subd. 2a. **Preliminary engineering plan.** "Preliminary engineering plan" means a light rail transit plan that includes the items in the preliminary design plan for the facilities proposed for construction, but with greater detail and specificity to satisfy final environmental impact statement requirements.

Subd. 3. **Final design plan.** "Final design plan" means a light rail transit plan that includes the items in the preliminary design plan and the preliminary engineering plan for the facilities proposed but with greater detail and specificity needed for construction. The final design plan must include, at a minimum:

(1) final plans for the physical design of facilities, including the right-of-way definition; environmental impacts and mitigation measures; intermodal coordination with bus operations and routes; and civil engineering plans for vehicles, track, stations, parking, and access, including handicapped access; and

(2) final plans for civil engineering for electrification, communication, and other similar facilities; operational rules, procedures, and strategies; capital costs; ridership; operating costs and revenues, and sources of funds for operating subsidies; financing for construction and operation; an implementation method; and other similar matters.

The final design plan must be stated with sufficient particularity and detail to allow the proposer to begin the acquisition and construction of operable facilities. If a turn-key implementation method is proposed, instead of civil engineering plans the final design plan must state detailed design criteria and performance standards for the facilities.

History: 1989 c 339 s 14; 1993 c 353 s 6; 1995 c 186 s 85

473.3994 LIGHT RAIL TRANSIT; DESIGN PLANS.

Subdivision 1. [Repealed, 1989 c 339 s 24]

Subd. 2. **Preliminary design plans; public hearing.** Before final design plans are prepared for a light rail transit facility, the commissioner of transportation and the regional railroad authority or authorities in whose jurisdiction the line or lines are located must hold a public hearing on the physical design component of the preliminary design plans. The commissioner of transportation and the regional railroad authority or authorities in whose jurisdiction the line or lines are located must provide appropriate public notice of the hearing and publicity to ensure that affected parties have an opportunity to present their views at the hearing. The commissioner shall summarize the proceedings and testimony and maintain the record of a hearing held under this section, including any written statements submitted.

Subd. 3. **Preliminary design plans; local approval.** At least 30 days before the hearing under subdivision 2, the commissioner of transportation and the regional railroad authority or authorities in whose jurisdiction the line or lines are located shall submit the physical design component of the preliminary design plans to the governing body of each statutory and home rule charter city, county, and town in which the route is proposed to be located. The city, county, or town shall hold a public hearing, except that a county board need not hold a hearing

if the county board membership is identical to the membership of the regional railroad authority submitting the plan for review. Within 45 days after the hearing under subdivision 2, the city, county, or town shall review and approve or disapprove the plans for the route to be located in the city, county, or town. A local unit of government that disapproves the plans shall describe specific amendments to the plans that, if adopted, would cause the local unit to withdraw its disapproval. Failure to approve or disapprove the plans in writing within 45 days after the hearing is deemed to be approval, unless an extension of time is agreed to by the city, county, or town, the commissioner of transportation, and the regional railroad authority or authorities in whose jurisdiction the line or lines are located.

Subd. 4. Preliminary design plans; council referral. If the governing body of one or more cities, counties, or towns disapproves the preliminary design plans within the period allowed under subdivision 3, the commissioner of transportation and the regional railroad authority or authorities in whose jurisdiction the line or lines are located may refer the plans, along with any comments of local jurisdictions, to the metropolitan council. The council shall hold a hearing on the plans, giving the commissioner of transportation and the regional railroad authority or authorities in whose jurisdiction the line or lines are located, any disapproving local governmental units, and other persons an opportunity to present their views on the plans. The council may conduct independent study as it deems desirable and may mediate and attempt to resolve disagreements about the plans. Within 90 days after the referral, the council shall review the plans submitted by the commissioner of transportation and the regional railroad authority or authorities in whose jurisdiction the line or lines are located and the council shall decide what amendments to the plans, if any, must be made to accommodate the objections presented by the disapproving local governmental units. The commissioner and the regional railroad authority shall make the amendments to the plans before continuing the planning and designing process.

Subd. 5. Final design plans. (a) Before beginning construction, the commissioner shall submit the physical design component of final design plans to the governing body of each statutory and home rule city, county, and town in which the route is proposed to be located. Within 60 days after the submission of the plans, the city, county, or town shall review and approve or disapprove the plans for the route located in the city, county, or town. A local unit of government that disapproves the plans shall describe specific amendments to the plans that, if adopted, would cause the local unit to withdraw its disapproval. Failure to approve or disapprove the plans in writing within the time period is deemed to be approval, unless an extension is agreed to by the city, county, or town and the commissioner.

(b) If the governing body of one or more cities, counties, or towns disapproves the plans within the period allowed under paragraph (a), the commissioner may refer the plans, along with any comments of local jurisdictions, to the metropolitan council. The council shall review the final design plans under the same procedure and with the same effect as provided in subdivision 4 for preliminary design plans.

Subd. 6. [Repealed, 1993 c 353 s 20]

Subd. 7. Council review. Before proceeding with construction of a light rail transit facility, the commissioner must submit preliminary and final design plans to the metropolitan council. The council must review the plans for consistency with the council's development guide and approve the plans.

Subd. 8. Metropolitan significance. This section does not diminish or replace the authority of the council under section 473.173.

Subd. 9. Light rail transit operating costs. (a) Before submitting an application for federal assistance for light rail transit facilities in the metropolitan area, the applicant must provide to the metropolitan council estimates of the amount of operating subsidy which will be required to operate light rail transit in the corridor to which the federal assistance would be applied. The information provided to the council must indicate the amount of operating subsidy estimated to be required in each of the first ten years of operation of the light rail transit facility.

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

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

Subd. 10. Corridor management committee. A corridor management committee shall be established to advise the commissioner of transportation in the design and construction of light rail transit in each corridor to be constructed. The corridor management committee shall consist of the members of the light rail transit joint powers board established pursuant to section 473.3998 and one representative from each city in which the corridor is located. Additionally, the commissioner of transportation and three representatives of the metropolitan council shall each appoint a member to the committee. For the corridor between Minneapolis and St. Paul, the University of Minnesota shall appoint one member to the committee. A member representing the metropolitan council shall chair the committee.

The corridor management committee shall advise the commissioner of transportation and the regional railroad authority or authorities in whose jurisdiction the line or lines are located on issues relating to the alternatives analysis, environmental review, preliminary design, preliminary engineering, final design, implementation method, and construction of light rail transit.

Subd. 11. Regional railroad authority review. The commissioner must submit to each regional rail authority in which the corridor is located, for review and approval, the following:

- (1) preliminary design and preliminary engineering plans; and
- (2) final design plans.

The commissioner must submit major contract changes during construction to each regional rail authority in which the corridor is located for review and comment.

Subd. 12. Alternatives analysis; environmental review. For light rail transit lines to be constructed in the metropolitan area, the regional railroad authority or authorities in whose jurisdiction a line or lines are to be constructed and the commissioner of transportation shall jointly prepare an alternatives analysis, the environmental review documents required, and the preliminary engineering plan. The council must approve the design for the alternatives analysis and the completed alternatives analysis. The department of transportation shall be the responsible governmental unit.

Subd. 13. Dispute resolution. In the event of a dispute between any of the parties arising from the parties' respective authority and responsibility under this section or section 473.3998, the dispute shall be submitted to the metropolitan council for final resolution by any party to the dispute. The metropolitan council shall establish by July 1, 1993, a process to ensure a prompt and speedy resolution of the dispute. This process shall allow the parties to provide evidence and testimony in support of their positions.

History: 1987 c 405 s 2; 1989 c 339 s 3-6; 1991 c 291 art 4 s 9; 1993 c 353 s 7-15; 1994 c 628 art 3 s 99

473.3996 [Repealed, 1994 c 628 art 3 s 209]

473.3997 FEDERAL FUNDING; LIGHT RAIL TRANSIT.

(a) Upon completion of the alternatives analysis and draft environmental impact statement for the central corridor transit improvement project, the council, the commissioner of transportation, and the affected regional rail authorities may prepare a joint application for federal assistance for light rail transit facilities in the metropolitan area. The application must be reviewed and approved by the metropolitan council before it is submitted by the council and the commissioner. In reviewing the application the council must consider the information submitted to it under section 473.3994, subdivision 9.

(b) Until the application described in paragraph (a) is submitted, no political subdivision in the metropolitan area may on its own apply for federal assistance for light rail transit planning or construction.

History: 1991 c 298 art 7 s 7; 1993 c 353 s 17; 1994 c 628 art 3 s 100

473.3998 LIGHT RAIL TRANSIT JOINT POWERS BOARD.

A light rail transit joint powers board shall be formed under section 471.59 consisting of one voting member from the regional rail authorities of Hennepin, Ramsey, Anoka, Washington, Dakota, Scott, and Carver counties.

The board shall review and approve light rail transit system standards to be used by the commissioner in designing and building a light rail transit facility and shall review and approve the plan for community involvement and the marketing program. The board shall advise the corridor management committee established pursuant to section 473.3994, subdivision 10, and the commissioner on the method of implementation. All members of the board shall be members of the corridor management committee established pursuant to section 473.3994, subdivision 10.

History: 1991 c 298 art 7 s 8; 1993 c 353 s 18

473.401 [Repealed, 1984 c 654 art 3 s 153]

473.402 [Repealed, 1984 c 654 art 3 s 153]

473.403 [Repealed, 1984 c 654 art 3 s 153]

473.404 [Repealed, 1994 c 628 art 3 s 209]

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.

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

Subd. 3. **Condemnation.** The council may for transit purposes acquire property, franchises, easements, or property rights or interests of any kind by condemnation proceedings pursuant to chapter 117. Except as provided in subdivision 9, the council may take possession of any property for which condemnation proceedings have been commenced at any time after the filing of the petition describing the property in the proceedings. The council may contract with an operator or other persons for the use by the operator or person of any property under the council's control.

Subd. 4. **Transit systems.** The council may engineer, construct, equip, and operate transit and paratransit systems, projects, or any parts thereof, including road lanes or rights of way, terminal facilities, maintenance and garage facilities, ramps, parking areas, and any other facilities useful for or related to any public transit or paratransit system or project.

Subd. 5. **Acquisition of transit systems.** The council may acquire by purchase, lease, gift, or condemnation proceedings any existing public transit system or any part thereof, including all or any part of the plant, equipment, shares of stock, property, real, personal, or mixed, rights in property, reserve funds, special funds, franchises, licenses, patents, permits and papers, documents and records belonging to any operator of a public transit system within the metropolitan area, and may in connection therewith assume any or all liabilities of any operator of a public transit system. The council may take control of and operate a system immediately following the filing and approval of the initial petition for condemnation, if the council, in its discretion, determines this to be necessary, and may take possession of all right, title and other powers of ownership in all properties and facilities described in the petition. Control must be taken by resolution which is effective upon service of a copy on the condemnor and the filing of the resolution in the condemnation action. In the determination of the fair value of the existing public transit system, there must not be included any value attributable to expenditures for improvements made by the former metropolitan transit commission or council.

The council may continue or terminate within three months of acquisition any advertising contract in existence by and between any advertiser and a transit system that the council has acquired. If the council determines to terminate the advertising contract, it shall acquire all of the advertiser's rights under the contract by purchase or eminent domain proceedings as provided by law.

Subd. 6. [Repealed, 1994 c 628 art 3 s 209]

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

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

Subd. 9. **Condemnation of public or public service corporation property.** The fact that property is owned by or is in charge of a public agency or a public service corporation organized for a purpose specified in section 300.03, or is already devoted to a public use or to use by the corporation or was acquired therefor by condemnation may not prevent its acquisition by the council by condemnation, but if the property is in actual public use or in actual use by the corporation for any purpose of interest or benefit to the public, the taking by the council by condemnation may not be authorized unless the court finds and determines that there is greater public necessity for the proposed use by the council than for the existing use.

Subd. 10. **Voluntary transfer of public property.** Any state department or other agency of the state government or any county, municipality, or other public agency may sell, lease, grant, transfer, or convey to the council, with or without consideration, any facilities or any part or parts thereof or any real or personal property or interest therein which may be useful to the council for any authorized purpose. In any case where the construction of a facility has not been completed, the public agency concerned may also transfer, sell, assign, and set over to the council, with or without consideration, any existing contract for the construction of the facilities.

Subd. 11. [Repealed, 1994 c 628 art 3 s 209]

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 either 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.

Subd. 13. [Repealed, 1994 c 628 art 3 s 209]

Subd. 14. [Repealed, 1994 c 628 art 3 s 209]

Subd. 15. **Relocation of displaced persons.** The council may plan for and assist in the relocation of individuals, families, business concerns, nonprofit organizations, and others displaced by operations of the council, and may make relocation payments in accordance with federal regulations.

History: 1975 c 13 s 56; 1977 c 454 s 34,35; 1982 c 424 s 130; 1984 c 654 art 3 s 127; 1Sp1985 c 10 s 107; 1987 c 370 art 2 s 17; 1987 c 384 art 2 s 1; 1990 c 571 s 43; 1994 c 628 art 3 s 101-108; 1995 c 186 s 86,87

473.4051 LIGHT RAIL TRANSIT OPERATION.

The council shall operate light rail transit facilities and services upon completion of construction of the facilities and the commencement of revenue service using the facilities.

The commissioner of transportation and the council may not allow the commencement of revenue service until after an appropriate period of acceptance testing to ensure satisfactory performance. In assuming the operation of the system, the council must comply with section 473.415. The council shall coordinate operation of the light rail transit system with bus service to avoid duplication of service on a route served by light rail transit and to ensure the widest possible access to light rail transit lines in both suburban and urban areas by means of a feeder bus system.

History: 1988 c 684 art 2 s 6; 1989 c 339 s 19; 1993 c 353 s 19; 1994 c 628 art 3 s 109

473.406 [Repealed, 1989 c 352 s 25; 1990 c 541 s 29]

473.407 METROPOLITAN TRANSIT POLICE.

Subdivision 1. Authorization. The council may appoint peace officers, as defined in section 626.84, subdivision 1, paragraph (c), and establish a law enforcement agency, as defined in section 626.84, subdivision 1, paragraph (h), known as the metropolitan transit police, to police its transit property and routes and to make arrests under sections 629.30 and 629.34. The jurisdiction of the law enforcement agency is limited to offenses relating to council transit property, equipment, employees, and passengers.

Subd. 2. Limitations. The initial processing of a person arrested by the transit police for an offense within the agency's jurisdiction is the responsibility of the transit police unless otherwise directed by the law enforcement agency with primary jurisdiction. A subsequent investigation is the responsibility of the law enforcement agency of the jurisdiction in which the crime was committed. The transit police are not authorized to apply for a search warrant as prescribed in section 626.05.

Subd. 3. Policies. Before the council begins to operate its law enforcement agency within a city or county with an existing law enforcement agency, the transit police shall develop, in conjunction with the law enforcement agencies, written policies that describe how the issues of joint jurisdiction will be resolved. The policies must also address the operation of emergency vehicles by transit police responding to transit emergencies. These policies must be filed with the board of peace officer standards and training by August 1, 1993. Revisions of any of these policies must be filed with the board within ten days of the effective date of the revision. The council shall train all of its peace officers regarding the application of these policies.

Subd. 4. Chief law enforcement officer. The council shall appoint a peace officer employed full time to be the chief law enforcement officer and to be responsible for the management of the law enforcement agency. The person shall possess the necessary police and management experience and have the title of chief of metropolitan transit police services. All other police management and supervisory personnel must be employed full time by the council. Supervisory personnel must be on duty and available any time transit police are on duty. The council may not hire part-time peace officers as defined in section 626.84, subdivision 1, paragraph (f), except that the council may appoint peace officers to work on a part-time basis not to exceed 30 full-time equivalents.

Subd. 5. Emergencies. (a) The council shall ensure that all emergency vehicles used by transit police are equipped with radios capable of receiving and transmitting on the same frequencies utilized by the law enforcement agencies that have primary jurisdiction.

(b) When the transit police receive an emergency call they shall notify the public safety agency with primary jurisdiction and coordinate the appropriate response.

(c) Transit police officers shall notify the primary jurisdictions of their response to any emergency.

Subd. 6. Compliance. Except as otherwise provided in this section, the transit police shall comply with all statutes and administrative rules relating to the operation and management of a law enforcement agency.

History: 1993 c 326 art 7 s 11; 1994 c 628 art 3 s 110-115

473.408 FARE POLICY.

Subdivision 1. **Definition.** "Off-peak hours" means the time from 9:00 a.m. to 3:30 p.m. and 6:30 p.m. until the last bus on Monday through Friday of each week and all day Saturday, Sunday, and holidays designated by the council.

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.

Subd. 2a. **Regular route fares.** The council shall establish and enforce uniform fare policies for regular route transit in the metropolitan area. The policies must be consistent with the requirements of this section and the council's transportation policy plan. The council and other operators shall charge a base fare and any surcharges for peak hours and distance of service in accordance with the council's fares policies. The council shall approve all fare schedules.

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.

Subd. 3. [Repealed, 1Sp1985 c 10 s 123 subd 1]

Subd. 3a. [Repealed, 1Sp1985 c 10 s 123 subd 1]

Subd. 3b. [Repealed, 1Sp1985 c 10 s 123 subd 1]

Subd. 4. **Circulation fares.** The council and other operators may charge a reduced fare for service on any route providing circulation service in a downtown area or community activity center. The council and other operators shall not contribute more than 50 percent of the operating deficit of any such route that is confined to a downtown area or community activity center. The boundaries of service districts eligible for reduced fares under this subdivision must be approved by the council.

Subd. 5. [Repealed, 1Sp1985 c 10 s 123 subd 1]

Subd. 6. **Monthly passes.** The council may offer monthly passes for regular route bus service for sale to the general public.

Subd. 7. **Employee plan.** The council may offer monthly passes for regular route bus service for sale to employers at a special discount subject to the provisions of this subdivision. An employer may be eligible to purchase passes at a special discount if the employer agrees to establish a payroll deduction plan as a means for its employees to purchase the passes at a price at or below the amount charged by the council. The special discount on passes sold pursuant to this subdivision shall be determined by the council.

History: 1977 c 454 s 36; Ex1979 c 1 s 48,49; 1980 c 614 s 152; 1981 c 363 s 51,52; 3Sp1981 c 2 art 1 s 70; 1983 c 27 s 1-3; 1983 c 293 s 104; 1Sp1985 c 10 s 108,109; 1994 c 628 art 3 s 116-121; 1995 c 260 s 7,8

473.409 AGREEMENTS WITH COUNCIL; ENCOURAGEMENT OF TRANSIT USE.

A state department or agency, including the legislative branch, any local governmental unit, or a metropolitan agency may enter into an agreement with the council and other opera-

tors for the purpose of encouraging the use of transit by its employees residing in the metropolitan area. The agreement may provide for, among other things: (a) the advance purchase of tokens, tickets or other devices from the council or other operator for use in lieu of fares on vehicles operated by the council or other operator; and (b) special transit service for employees to and from their place of employment, at fares to be agreed upon by the contracting parties. The tokens, tickets, or other devices or services may be made available to employees at reduced rates. Any such agreement and arrangement by a state department or agency shall be submitted to the commissioner of administration for approval before execution. Any operating deficits or subsidy resulting from such agreements shall be assumed by the contracting department, agency, governmental unit, or other commission, unless otherwise provided in an agreement approved by the council.

History: 1977 c 454 s 37; 1984 c 654 art 3 s 128; 1986 c 460 s 41; 1994 c 628 art 3 s 122

473.411 TRANSIT AND HIGHWAY SYSTEMS.

Subdivision 1. [Repealed, 1984 c 654 art 3 s 153]

Subd. 2. [Repealed, 1977 c 454 s 49]

Subd. 3. **Services of department of transportation.** The council may make use of engineering and other technical and professional services, including regular staff and qualified consultants, which the commissioner of transportation can furnish, upon fair and reasonable reimbursement for the cost thereof; provided, that the council has final authority over the employment of any services from other sources which it may deem necessary for such purposes. The commissioner of transportation may furnish all engineering, legal, and other services, if so requested by the council and upon fair and reasonable reimbursement for the cost thereof by the council, for the purposes stated in this subdivision, including the acquisition by purchase, condemnation, or otherwise in the name of the council of all lands, waters, easements, or other rights or interests in lands or waters required by the council. No purchase of service agreements may be made under this subdivision which are not included in the budget of the council.

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 entail 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: 1975 c 13 s 57; 1976 c 166 s 7; 1977 c 454 s 38,39; Ex1979 c 1 s 50; 1981 c 356 s 240; 1981 c 363 s 53; 1984 c 654 art 3 s 129; 1987 c 384 art 2 s 1; 1993 c 154 s 1; 1994 c 628 art 3 s 123-125; 1995 c 186 s 119

473.413 [Repealed, 1984 c 654 art 3 s 153]

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.

Subd. 2. For any employees of the former metropolitan transit commission who were transferred to and appointed as employees of the commission upon completion of acquisitions of transit systems which occurred prior to the effective date of Laws 1978, chapter 538, the provisions of Laws 1978, chapter 538 shall replace the provisions of subdivision 1 relating to the pension obligations which the commission is required to assume, and the pension or retirement plan and pension trust funds which the commission is required to establish, maintain and administer. Upon compliance with the applicable provisions of Laws 1978, chapter 538, the commission shall not be deemed to have placed any employee of the com-

mission who was transferred to and appointed as an employee of the commission upon completion of acquisitions of transit systems which occurred prior to the effective date of Laws 1978, chapter 538, in any worse position with respect to pension and related benefits than the employee of the commission enjoyed as an employee of the acquired existing transit system.

Subd. 3. For any employees of the former metropolitan transit commission who are transferred to and appointed as employees of the commission upon completion of acquisitions of transit systems which occur subsequent to the effective date of Laws 1978, chapter 538, those employees shall be governed by the provisions of Laws 1978, chapter 538 unless the acquisition of the transit system which employed them immediately preceding the acquisition included the acquisition of a pension trust fund under the joint control of the acquired system and the participating employees through their representatives.

History: 1975 c 13 s 59; 1975 c 359 s 23; 1977 c 454 s 42; 1978 c 538 s 7; 1986 c 444; 1987 c 384 art 2 s 1; 1994 c 628 art 3 s 126-128; 1995 c 186 s 119

473.416 COUNCIL; TAKING OVER PERSONNEL AND CONTRACTS OF TRANSIT SYSTEMS.

Whenever the council directly operates any public transit system, or any part thereof, or enters into any management contract or other arrangement for the operation of a system, the council shall take the action necessary to extend to employees of the affected public transit systems, in accordance with seniority, the first opportunity for reasonably comparable employment in any available nonsupervisory jobs in respect to such operations for which they can qualify after a reasonable training period. The employment must not result in any worsening of the employee's position in the employee's former employment nor any loss of wages, hours, working conditions, seniority, fringe benefits, and rights and privileges pertaining thereto. The council may enter into an agreement specifying fair and equitable arrangements to protect the interests of employees who may be affected if the council should acquire any interest in or purchase any facilities or other property of a privately owned and operated transit system, or construct, improve, or reconstruct any facilities or other property acquired from any system, or provide by contract or otherwise for the operation of transportation facilities or equipment in competition with, or supplementary to, the service provided by an existing transit system. The agreement, specifying the terms and conditions of the protective arrangements, must comply with any applicable requirements of this chapter, and with the requirements of any federal law or regulation if federal aid is involved. The agreement may provide for final and binding arbitration of any dispute.

History: 1975 c 13 s 60; 1984 c 654 art 3 s 130; 1986 c 444; 1987 c 384 art 2 s 1; 1994 c 628 art 3 s 129

473.417 [Repealed, 1994 c 628 art 3 s 209]

473.418 [Repealed, 1996 c 310 s 1]

473.419 [Repealed, 1987 c 284 art 2 s 9]

473.42 EMPLOYER CONTRIBUTIONS FOR CERTAIN EMPLOYEES.

Notwithstanding any contrary provisions of section 352.029, the council shall make the employer contributions required pursuant to section 352.04, subdivision 3, for any employee who was on authorized leave of absence from the transit operating division of the former metropolitan transit commission who is employed by the labor organization which is the exclusive bargaining agent representing employees of the office of transit operations and who is covered by the Minnesota state retirement system in addition to all other employer contributions the council is required to make.

History: 1978 c 538 s 16; 1994 c 628 art 3 s 131

473.421 [Repealed, 1977 c 454 s 49]

473.422 [Repealed, 1977 c 454 s 49]

473.423 [Repealed, 1977 c 454 s 49]

473.424 [Repealed, 1977 c 454 s 49]

473.425 [Repealed, 1977 c 454 s 49]

473.435 [Repealed, 1994 c 628 art 3 s 209]

473.436 COUNCIL; BORROWING MONEY.

Subdivision 1. [Repealed, 1Sp1985 c 10 s 123 subd 1]

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.

Subd. 3. **Tax exempt.** Certificates of indebtedness, bonds, or other obligations of the council shall be deemed and treated as instrumentalities of a public government agency.

Subd. 4. [Repealed, 1Sp1985 c 10 s 123 subd 1]

Subd. 5. [Repealed, 1Sp1985 c 10 s 123 subd 1]

Subd. 6. **Temporary borrowing.** On or after the first day of any fiscal year, the council may borrow money which may be used or expended by the council for any purpose, including but not limited to current expenses, capital expenditures and the discharge of any obligation or indebtedness of the council. The indebtedness must be represented by a note or notes which may be issued from time to time in any denomination and sold at public or private sale pursuant to a resolution authorizing the issuance. The resolution must set forth the form and manner of execution of the notes and shall contain other terms and conditions the council deems necessary or desirable to provide security for the holders of the notes. The note or notes are payable from committed or appropriated money from taxes, grants or loans of the state or federal government made to the council, or other revenues of the council, and the money may be pledged to the payment of the notes. The council is authorized to pledge to the payment of the note or notes taxes levied by it under section 473.446, subdivision 1, clause (a), and if taxes are so pledged the council shall transfer amounts received from the levy to the council for payment of the note or notes. To the extent the notes are not paid from the grant or loan money pledged for the payment thereof, the principal and interest of the notes must be paid from any taxes received by the council and any income and revenue received by or accrued to the council during the fiscal year in which the note or notes were issued, or other money of the council lawfully available therefor.

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

History: 1979 c 46 s 1; 1980 c 462 s 2; 1983 c 213 s 21; 1983 c 293 s 105; 1983 c 344 s 25; 1984 c 654 art 3 s 132,133; 1Sp1985 c 10 s 111; 1994 c 628 art 3 s 132-134; 1995 c 202 art 1 s 25

473.437 [Repealed, 1977 c 454 s 49]

473.438 [Repealed, 1Sp1985 c 10 s 123 subd 1]

473.443 [Repealed, 1977 c 454 s 49]

473.445 Subdivision 1. MS 1992 [Repealed, 1994 c 628 art 3 s 209]

Subd. 2. MS 1975 [Repealed, 1977 c 454 s 49]

Subd. 3. MS 1992 [Repealed, 1994 c 628 art 3 s 209]

NOTE: Subdivision 3 was also amended by Laws 1994, chapter 411, section 4, to read as follows:

"Subd. 3. Each report must be filed with the secretary of the commission and a copy must be filed with the board, the council, and the secretary of state. Copies must also be submitted to the legislature by November 15 of each even-numbered year and distributed annually to the governor, to each member of the legislature under section 3.195, to each county, and to each elected chief executive of each municipality in the metropolitan area."

473.446 TRANSIT TAX LEVIES.

Subdivision 1. **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 subdivi-

sion and subdivision 1b, 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 paragraph (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 before reduction by the amount levied by any municipality in the previous year under section 473.388, subdivision 7, 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, minus the amount levied by any municipality in the current levy year under section 473.388, subdivision 7.

The portion of the property tax levy for transit district operating purposes attributable to a municipality that has exercised a local levy option under section 473.388, subdivision 7, is the amount as determined under subdivision 1b. The portion of the property tax levy for transit district operating purposes attributable to the remaining municipalities within the transit district is found by subtracting the portions attributable to the municipalities that have exercised a local levy option under section 473.388, subdivision 7.

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 section and section 473.388 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 section and section 473.388 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 and to the municipalities levying under section 473.388, subdivision 7, the amounts certified by the county auditors on the dates provided in section 273.1398, apportioned between the council and the municipality in the same proportion as the total transit levy is apportioned within the municipality. 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.

Subd. 1b. Deduction of levy for eligible municipalities. (a) The maximum the council may levy for general purposes under subdivision 1, paragraph (a), upon taxable property within a municipality levying taxes under section 473.388, subdivision 7, is the combined transit tax levied within the municipality in the previous year under subdivision 1 and section 473.388, subdivision 7, multiplied by the municipality's market value adjustment ratio, minus the amount to be levied by the municipality under section 473.388, subdivision 7, for the current levy year.

(b) For purposes of this subdivision:

(1) "municipality" means a municipality levying taxes under section 473.388, subdivision 7, for replacement transit service;

(2) "market value adjustment ratio" means the index for market valuation changes described in this section, as applied to individual municipalities; and

(3) "tax revenues" has the meaning given the term in section 473.388, subdivision 4.

Subd. 2. Transit taxing district. The metropolitan transit taxing district is hereby designated as that portion of the metropolitan transit area lying within the following named cities, towns, or unorganized territory within the counties indicated:

(a) Anoka county. Anoka, Blaine, Centerville, Columbia Heights, Coon Rapids, Fridley, Circle Pines, Hilltop, Lexington, Lino Lakes, Spring Lake Park;

(b) Carver county. Chanhassen, the city of Chaska;

(c) Dakota county. Apple Valley, Burnsville, Eagan, Inver Grove Heights, Lilydale, Mendota, Mendota Heights, Rosemount, South St. Paul, Sunfish Lake, West St. Paul;

(d) Ramsey county. All of the territory within Ramsey county;

(e) Hennepin county. Bloomington, Brooklyn Center, Brooklyn Park, Champlin, Chanhassen, Crystal, Deephaven, Eden Prairie, Edina, Excelsior, Golden Valley, Greenwood, Hopkins, Long Lake, Maple Grove, Medicine Lake, Minneapolis, Minnetonka, Minnetonka Beach, Mound, New Hope, Orono, Osseo, Plymouth, Richfield, Robbinsdale, St. Anthony,

St. Louis Park, Shorewood, Spring Park, Tonka Bay, Wayzata, Woodland, the unorganized territory of Hennepin county;

(f) Scott county. Prior Lake, Savage, Shakopee;

(g) Washington county. Baytown, the city of Stillwater, White Bear Lake, Bayport, Birchwood, Cottage Grove, Dellwood, Lake Elmo, Landfall, Mahtomedi, Newport, Oakdale, Oak Park Heights, Pine Springs, St. Paul Park, Willernie, Woodbury.

The metropolitan council in its sole discretion may provide transit service by contract beyond the boundaries of the metropolitan transit taxing district or to cities and towns within the taxing district which are receiving financial assistance under section 473.388, upon petition therefor by an interested city, township or political subdivision within the metropolitan transit area. The metropolitan council may establish such terms and conditions as it deems necessary and advisable for providing the transit service, including such combination of fares and direct payments by the petitioner as will compensate the council for the full capital and operating cost of the service and the related administrative activities of the council. The amount of the levy made by any municipality to pay for the service shall be disregarded when calculation of levies subject to limitations is made, provided that cities and towns receiving financial assistance under section 473.388 shall not make a special levy under this subdivision without having first exhausted the available local transit funds as defined in section 473.388. The council shall not be obligated to extend service beyond the boundaries of the taxing district, or to cities and towns within the taxing district which are receiving financial assistance under section 473.388, under any law or contract unless or until payment therefor is received.

Subd. 2a. Rights of debt holders. The provisions of subdivisions 1 and 2 or any other law changing the boundaries of the metropolitan transit taxing district or reducing the levy otherwise required to be levied within the district shall not be deemed to impair the rights of holders of outstanding indebtedness to require the levy of property taxes, if necessary to provide for any deficiency in accordance with the conditions of such indebtedness, on all property within the limits of the metropolitan transit taxing district as such limits were in effect at the date of issuance of such indebtedness.

Subd. 3. Certification and collection. Each county treasurer shall collect and make settlement of the taxes levied under subdivisions 1 and 1a with the treasurer of the council. The levy of transit taxes pursuant to this section shall not affect the amount or rate of taxes which may be levied by any county or municipality or by the council for other purposes authorized by law and shall be in addition to any other property tax authorized by law.

Subd. 4. [Repealed, 1977 c 454 s 49]

Subd. 5. [Repealed, 1977 c 454 s 49]

Subd. 6. [Repealed, 1Sp1985 c 10 s 123 subd 1]

Subd. 7. Rights of holders of debt; after 1983 levy. Beginning for taxes levied in 1984, payable in 1985, and for each succeeding year, as part of its levy made pursuant to subdivisions 1 and 6, the council shall levy the amounts necessary to provide full and timely payment of certificates of indebtedness, bonds, and other obligations of the former metropolitan transit commission, until all debt of the commission is fully discharged and transfer the proceeds to the appropriate council account for payment of its obligations. The taxes must be levied, certified, and collected in accordance with the terms and conditions of the indebtedness. Nothing in Laws 1984, chapter 654 may impair the rights of holders of valid obligations of the former metropolitan transit commission to require a levy of property taxes. The council shall take the actions necessary to comply with the terms and conditions of the obligations, including if necessary the levy of property taxes to provide for a deficiency.

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 subdivisions 1 and 1b. 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: 1975 c 13 s 71; 1975 c 203 s 4–8; 1976 c 166 s 7; 1977 c 454 s 44; 1979 c 46 s 2; 1980 c 607 art 13 s 1; 1980 c 614 s 190; 1981 c 363 s 54; 3Sp1981 c 2 art 1 s 71; 1983 c 17 s 13; 1983 c 293 s 106; 1984 c 502 art 3 s 25; 1984 c 654 art 3 s 135–137; 1984 c 655 art 2 s 11 subd 1; 1985 c 248 s 61; 1Sp1985 c 10 s 112–115; 1986 c 444; 1987 c 268 art 6 s 49; 1987 c 278 s 19; 1987 c 384 art 2 s 1; 1988 c 675 s 18–20; 1988 c 719 art 5 s 47; 1989 c 277 art 4 s 73; 1Sp1989 c 1 art 9 s 68; 1992 c 511 art 4 s 25; 1993 c 375 art 7 s 19; 1994 c 416 art 1 s 54; 1994 c 628 art 3 s 135–140; 1995 c 186 s 119; 1995 c 236 s 15; 1995 c 264 art 16 s 19; 1996 c 305 art 1 s 103; 1996 c 455 art 5 s 5–7

473.447 [Repealed, 1977 c 454 s 49]

473.448 TRANSIT ASSETS EXEMPT FROM TAX BUT MUST PAY ASSESSMENTS.

(a) 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 are exempt from all taxation, licenses, or fees imposed by the state or by any county, municipality, political subdivision, taxing district, or other public agency or body of the state.

(b) Notwithstanding paragraph (a), the council's transit properties are subject to special assessments levied by a political subdivision for a local improvement in amounts proportionate to and not exceeding the special benefit received by the properties from the improvement.

History: 1975 c 13 s 73; 1983 c 213 s 22; 1994 c 628 art 3 s 141; 1995 c 236 s 16; 1996 c 471 art 3 s 41

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: 1975 c 13 s 74; 1984 c 654 art 3 s 138; 1987 c 384 art 2 s 1; 1994 c 628 art 3 s 142; 1995 c 186 s 119

473.451 [Repealed, 1984 c 654 art 3 s 153]

WASTE WATER SERVICES

473.501 DEFINITIONS.

Subdivision 1. **Terms.** The terms defined in this section shall have the meanings given them for the purposes of sections 473.501 to 473.549 unless otherwise provided or indicated by the context.

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

Subd. 3. **Local government unit or government unit.** "Local government unit" or "government unit" means any municipal or public corporation or governmental subdivision or agency located in whole or in part in the metropolitan area, authorized by law to provide for the collection and disposal of sewage.

History: 1975 c 13 s 76

473.502 [Repealed, 1986 c 460 s 59]

473.503 [Repealed, 1994 c 628 art 3 s 209]

473.504 WASTE WATER SERVICES, POWERS.

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. **Rules, penalties.** 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. **Gifts, grants, loans.** 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. **Joint or cooperative action.** 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. **May get property.** 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. **Nonfranchise required.** 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. **Surplus property.** 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. **Pacts with other governments.** 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: 1975 c 13 s 79; 1976 c 166 s 7; 1985 c 248 s 70; 1987 c 291 s 229; 1994 c 628 art 3 s 143-149; 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: 1994 c 562 s 1; 1995 c 236 s 17

473.511 SEWER SERVICE FUNCTION.

Subdivision 1. **Duty of council; existing, new facilities.** At any time after January 1, 1970, until July 1, 1994, the former metropolitan waste control commission, and after July 1, 1994, the council shall assume ownership of all existing interceptors and treatment works which will be needed to implement the council's comprehensive plan for the collection, treatment, and disposal of sewage in the metropolitan area, in the manner and subject to the conditions prescribed in subdivisions 2 and 4, and shall thereafter acquire, construct, equip, operate and maintain all additional interceptors and treatment works which will be needed for such purpose. The council shall assume ownership of all treatment works owned by a local government unit if any part of such treatment works will be needed for such purpose.

Subd. 2. **Method of acquisition; existing debt.** The council may require any local government unit to transfer to the council, all of its right, title and interest in any interceptors or treatment works and all necessary appurtenances thereto owned by such local government unit which will be needed for the purpose stated in subdivision 1. Appropriate instruments of conveyance for all such property shall be executed and delivered to the council by the proper officers of each local government unit concerned. All persons regularly employed by a local government unit to operate and maintain any treatment works so transferred to the council, on the date on which the transfer becomes effective, shall be employees of the council, in the same manner and with the same options and rights as are reserved to employees of sanitary districts and joint boards under subdivision 3. The council, upon assuming ownership of any such interceptors or treatment works, shall become obligated to pay to such local government unit amounts sufficient to pay when due all remaining principal of and interest on bonds issued by such local government unit for the acquisition or betterment of the interceptors or treatment works taken over. Such amounts may be offset against any amount to be paid to the council by the local government unit as provided in section 473.517.

Subd. 3. **Existing sanitary districts, joint sewer boards.** Effective January 1, 1971, the corporate existence of the Minneapolis-St. Paul Sanitary District, the North Suburban Sanitary Sewer District, and any joint board created by agreement among local government

units pursuant to section 471.59, to provide interceptors and treatment works for such local government units, shall terminate. All persons regularly employed by such sanitary districts and joint boards on that date or on any earlier date on which the former waste control commission pursuant to subdivisions 1 and 2 assumed ownership and control of any interceptors or treatment works owned or operated by such sanitary districts and joint boards, and who are employees of the commission on July 1, 1994, shall be employees of the council, and may at their option become members of the Minnesota state retirement system or may continue as members of a public retirement association under chapter 422A or any other law, to which they belonged before such date, and shall retain all pension rights which they may have under such latter laws, and all other rights to which they are entitled by contract or law. Members of trades who are employed by the former metropolitan waste control commission, who have trade union pension coverage pursuant to a collective bargaining agreement, and who elected exclusion from coverage pursuant to section 473.512, or who are first employed after July 1, 1977, shall not be covered by the Minnesota state retirement system. The council shall make the employer's contributions to pension funds of its employees. Such employees shall perform such duties as may be prescribed by the council. All funds of such sanitary districts and joint boards then on hand, and all subsequent collections of taxes, special assessments or service charges levied or imposed by or for such sanitary districts or joint boards shall be transferred to the council. The local government units otherwise entitled to such cash, taxes, assessments or service charges shall be credited with such amounts, and such credits shall be offset against any amounts to be paid by them to the council as provided in section 473.517. The former metropolitan waste control commission, and on July 1, 1994, the council shall succeed to and become vested by action of law with all right, title and interest in and to any property, real or personal, owned or operated by such sanitary districts and joint boards. Prior to that date the proper officers of such sanitary districts and joint boards, or the former metropolitan waste control commission, shall execute and deliver to the council all deeds, conveyances, bills of sale, and other documents or instruments required to vest in the council good and marketable title to all such real or personal property; provided that vesting of the title shall occur by operation of law and failure to execute and deliver the documents shall not affect the vesting of title in the former metropolitan waste control commission or the council on the dates indicated in this subdivision. The council shall become obligated to pay or assume all bonded or other debt and contract obligations incurred by the former metropolitan waste control commission, or by such sanitary districts and joint boards, or incurred by local government units for the acquisition or betterment of any interceptors or treatment works owned or operated by such sanitary districts or joint boards.

Subd. 4. Current value of existing facilities. When the council assumes the ownership of any existing interceptors or treatment works as provided in subdivision 2 or 3, the local government unit or units which paid part or all of the cost of such facility, directly or pursuant to contracts for reimbursement of costs, shall be entitled to receive a credit against amounts to be allocated to them under section 473.517, which may be spread over such period not exceeding 30 years as the council shall determine, and an additional credit equal to interest on the unused credit balance from time to time at the rate of four percent per annum. The amount of such credit shall equal the current value of the facility computed by the council in the manner provided in this subdivision at the time the council acquires it. The original cost of a facility shall be computed as the total actual costs of constructing it, including engineering, legal, and administrative costs, less any part of it paid from federal or state funds and less the principal amount of any then outstanding bonds which were issued to finance its construction. The original cost shall be multiplied by a factor equal to a current cost index divided by the same cost index at the time of construction, to determine replacement cost. The cost indices used shall be the Engineering News Record Construction Cost Indices for facilities or parts thereof completed before 1930, and the United States Public Health Service Federal Water Pollution Control Values for Sewer and Treatment Plant Construction, as applied to facilities or parts thereof completed in or after 1930. The current value of the facility shall be the replacement cost depreciated by 2.50 percent per annum from the date of construction of treatment works and 1.25 percent per annum from the date of construction of interceptors; and decreased further by a reasonable allowance for obsolescence if the council determines that the facility or any part thereof will not be useful for council purposes for at

least the remaining period required to depreciate it fully, assuming no salvage value. The current value of each such facility shall be credited to each local government unit in proportion to the amount of the construction cost paid by that unit, as determined by the council, taking into account reimbursements previously made under contracts between any of the local government units. The council shall prepare an itemized statement of the amount of credit each local government unit is entitled to receive under this subdivision, and the years and amounts of installments of principal and interest thereon, and shall cause it to be mailed or delivered to the governing body of each local government unit concerned. All credits allowed under this subdivision shall be used to finance current costs allocated to the local government unit by the council or for other sewer costs, and the credits shall not be considered as proceeds from the sale of municipal property so as to permit their use for other purposes.

Subd. 5. [Repealed, 1994 c 628 art 3 s 209]

History: 1975 c 13 s 80; 1977 c 98 s 3; 1986 c 444; 1987 c 53 s 1; 1994 c 628 art 3 s 150-153

473.512 PENSION EXCLUSION FOR CERTAIN LABOR SERVICE EMPLOYEES.

Subdivision 1. Qualification, conditions. A member of a trade who is employed by the former metropolitan waste control commission, and on July 1, 1994, is employed by the council, on a permanent basis with trade union pension plan coverage pursuant to a collective bargaining agreement shall be excluded from coverage by the Minnesota state retirement system if the member was first employed on or after June 1, 1977 or, if the member was first employed prior to June 1, 1977, has elected to be excluded from coverage by the Minnesota state retirement system pursuant to subdivision 2, and has accepted a refund of contributions pursuant to subdivision 3.

Subd. 2. Deadline, effect. A member of a trade entitled under subdivision 1 to make an election of exclusion from pension coverage by the Minnesota state retirement system may make the election of exclusion no later than August 1, 1977 on forms provided by the executive director of the Minnesota state retirement system. The election of exclusion from coverage shall be a one time election irrevocable while employed in such capacity and shall have retroactive application to the first day of membership in the Minnesota state retirement system.

Subd. 3. Refund. Upon electing to be excluded from coverage as provided in subdivision 2 and making a valid application, a member of a trade shall be entitled to a refund of both the accumulated employee and the employer contributions made pursuant to Minnesota Statutes 1976, section 352.04, subdivision 3, on behalf of the member plus interest at the rate of 3-1/2 percent per annum compounded annually from the date of commencement of coverage, computed to the first day of the month in which the refund is processed and shall be based on fiscal year balances. The application for the refund may be made without the waiting period provided for in section 352.22, subdivision 1. No repayment of a refund made under this section shall be permitted.

History: 1977 c 98 s 4; 1986 c 444; 1994 c 628 art 3 s 154

473.513 MUNICIPAL PLANS AND PROGRAMS.

As soon as practicable after the adoption of the first policy plan by the council as provided in section 473.146, and before undertaking the construction of any extensions or additions to its disposal system or the substantial alteration or improvement of its existing disposal system, each local government unit shall adopt a similar policy plan for the collection, treatment and disposal of sewage for which the local government unit is responsible, coordinated with the council's plan, and may revise the same as often as it deems necessary. Each such plan shall be submitted forthwith to the council for review and shall be subject to the approval of the council as to those features affecting the council's responsibilities as determined by the council. Any such features disapproved by the council shall be modified in accordance with the council's recommendations. No construction of new sewers or other disposal facilities, and no substantial alteration or improvement of any existing sewers or other disposal facilities involving such features, shall be undertaken by any local government unit

unless its governing body shall first find the same to be in accordance with its comprehensive plan and program as approved by the council. At the time each local government unit makes application to the Minnesota pollution control agency for a permit to alter or improve its disposal system it shall file with the council a copy of the application together with design data and a location map of the project.

History: 1975 c 13 s 81; 1994 c 628 art 3 s 155

473.515 SEWAGE COLLECTION AND DISPOSAL; POWERS.

Subdivision 1. Identification of powers. In addition to all other powers conferred upon or delegated to the council hereunder, it shall have the powers specified in this section.

Subd. 2. Right to discharge treated sewage. The council shall have the right to discharge the effluent from any treatment works operated by it into any waters of the state in accordance with any effluent or water quality standards lawfully adopted by the pollution control agency.

Subd. 3. Connections with metropolitan system. The council may require any person or local government unit in the metropolitan area to provide for the discharge of its sewage, directly or indirectly, into the metropolitan disposal system, or to connect any disposal system or part thereof with the metropolitan disposal system wherever reasonable opportunity therefor is provided; may regulate the manner in which such connections are made; may require any person or local government unit discharging sewage into the metropolitan disposal system to provide preliminary treatment therefor; may prohibit the discharge into the metropolitan disposal system of any substance which it determines will or may be harmful to the system or any persons operating it; and may require any local government unit to discontinue the acquisition, betterment, or operation of any facility for its disposal system wherever and so far as adequate service is or will be provided by the metropolitan disposal system.

History: 1975 c 13 s 82; 1994 c 628 art 3 s 156-158

473.5155 ENFORCEMENT OF PRETREATMENT STANDARDS AND REQUIREMENTS.

Subdivision 1. Remedies available. (a) For purposes of this section, "violation" means any discharge or action by a person that violates sections 473.501 to 473.549 or rules, standards, variances, limitations, orders, stipulations, agreements, schedules of compliance, or permits that are issued or adopted by the council under sections 473.501 to 473.549.

(b) Each violation may be enforced by any one or a combination of the following: criminal prosecution, civil action, or other appropriate action in accordance with sections 473.501 to 473.549.

Subd. 2. Criminal penalties; duties. (a) Any person who commits a violation under subdivision 1 may be sentenced to imprisonment for not more than 90 days or to payment of a fine of not more than \$1,000, or both.

(b) County attorneys, sheriffs and other peace officers, and other officers authorized to enforce criminal laws shall take all action necessary to prosecute and punish violations.

Subd. 3. Civil penalties. A violation is subject to a penalty payable to the state, in an amount to be determined by the court, of not more than \$1,000 per day of violation. The civil penalty may be recovered by a civil action brought by the council in the name of the state.

History: 1990 c 469 s 2; 1994 c 628 art 3 s 159,160

473.516 WASTE FACILITIES; SEWAGE SLUDGE DISPOSAL.

Subdivision 1. Acquisition and operation. Without limiting the grant or enumeration of any of the powers conferred on the council under sections 473.501 to 473.549, the council shall have the specific power to acquire by purchase, lease, condemnation, gift or grant any real or personal property, positive and negative easements and water and air rights, and it may construct, enlarge, improve, replace, repair, maintain and operate waste facilities in the metropolitan area deemed to be necessary or convenient in connection with the processing or disposal of waste resulting from sewage treatment, and the council may contract for the maintenance and operation of such waste facilities, subject to the bidding requirements of

section 473.523. The council may accept for processing waste derived from outside the metropolitan area in the state, as well as waste derived from within the metropolitan area, and may fix and collect fees and charges for the acceptance of waste as the council determines to be reasonable.

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.

Subd. 3. Local restrictions. Counties and local units of government may impose conditions respecting the construction, operation, inspection, monitoring, and maintenance of a waste facility of the council and conditions respecting the sale, gift, delivery, storage, use, and disposal of sewage sludge of the council on private property as a soil conditioner or amendment, but only in the manner and only to the extent authorized and approved by the council and the pollution control agency as being consistent with the establishment and use of the council's waste facilities and the disposal of the council's sewage sludge on private property in accordance with the council's plan, adopted under Minnesota Statutes 1992, section 473.153, and agency permits and rules. Counties may exercise the enforcement powers granted under section 473.811, subdivision 5c, in the manner and to the extent authorized and approved in accordance with this subdivision.

Subd. 4. Technical monitoring; sewage sludge disposal. Each sewage sludge disposal facility of the council, or site used for the disposal of sewage sludge of the council, shall be required to have an agency permit issued pursuant to agency rules for permitting sewage sludge disposal facilities and sites. Each permit shall require a regular monitoring and testing program to be carried out by the council. A regular inspection program shall be conducted by the agency or a county under contract to the agency. The council shall reimburse the agency quarterly for the cost of the program, and the amounts reimbursed are hereby appropriated to the agency for the purposes of the program. The council shall attempt to the greatest practical extent to provide a sludge quality that permits desired nutrient loadings and minimizes elements not essential for plant growth when sludge is disposed of on private property as a soil conditioner or amendment. The council shall provide recipients with information on the facility generating the sludge and the content of the sludge taken from its various treatment facilities.

Subd. 5. Sludge ash contracts. Notwithstanding section 473.523, the council may enter into a negotiated contract with a private person to use the sludge ash generated by the council in a manufacturing process. The contract may not exceed 30 years.

History: 1976 c 179 s 10; 1980 c 564 art 10 s 5; 1981 c 352 s 39; 1986 c 425 s 38; 1986 c 460 s 42; 1993 c 13 art 2 s 11; 1994 c 628 art 3 s 161-165; 1995 c 247 art 2 s 26; 1996 c 305 art 1 s 104

473.517 ALLOCATION OF CURRENT COSTS.

Subdivision 1. Current costs defined. The estimated costs of operation, maintenance, and debt service of the metropolitan disposal system to be paid by the council in each fiscal year, and the costs of acquisition and betterment of the system which are to be paid during the year from funds other than bond proceeds, including all expenses incurred by the council pursuant to sections 473.501 to 473.545, are referred to in this section as current costs, and shall be allocated in the budget for that year to the respective local government units in the metropolitan area as provided in subdivisions 2 to 6. The amount budgeted by the council for any year for a reserve or contingency fund must be treated as a current cost and allocated as a cost of operation and maintenance in accordance with this section. The reserve or contingency fund so established may not exceed an amount equal to 7.5 percent of the council's waste control operating budget in total.

Subd. 2. Allocation of treatment, interceptor costs; adjusted volume. Except as provided in subdivision 3, the current costs of all treatment works and interceptors in the metro-

politan disposal system shall be allocated among and paid by all local government units which will discharge sewage, directly or indirectly, into the metropolitan disposal system during the budget year, in proportion to the total volume estimated to be so discharged by each local government unit, adjusted as follows:

(a) increased or decreased, as the case may be, to the extent the council determines, on the basis of such historical and reasonably projected data as may be available, that the sewage discharged by one unit will require more or less treatment to produce a suitable effluent than that discharged by others;

(b) decreased by any amount of surface water estimated by the council to be discharged by a local government unit from a combined storm and sanitary sewer system;

(c) increased by that volume of normal sanitary sewage which is equivalent for treatment purposes to the volume of surface water referred to in clause (b), as determined by the council from available engineering data; and

(d) increased or decreased, as the case may be, by the amount of any substantial and demonstrable error in a previous estimate.

Subd. 3. Allocation of treatment, interceptor costs; reserved capacity. In preparing each budget the council shall estimate the current costs of acquisition, betterment, and debt service, only, of the treatment works in the metropolitan disposal system which will not be used to total capacity during the budget year, and the percentage of such capacity which will not be used, and shall deduct the same percentage of such treatment works costs from the current costs allocated under subdivision 2. The council shall also estimate the current costs of acquisition, betterment, and debt service, only, of the interceptors in the metropolitan disposal system that will not be used to total capacity during the budget year, shall estimate the percentage of the total capacity that will not be used, and shall deduct the same percentage of interceptor costs from the current costs allocated under subdivision 2. The total amount so deducted with respect to all treatment works and interceptors in the system shall be allocated among and paid by the respective local government units in the metropolitan area for which system capacity unused each year is reserved for future use, in proportion to the amounts of such capacity reserved for each of them.

Subd. 4. [Repealed, 1987 c 53 s 8]

Subd. 5. [Repealed, 1987 c 53 s 8]

Subd. 6. Deferment of payments. The council may by resolution provide for the deferment of payment of all or part of the current costs of acquisition, betterment, and debt service of estimated unused capacity which are allocated by the council to a local government unit in any year pursuant to subdivision 3, repayable at such time or times as the council shall specify in the resolution, with interest at the approximate average annual rate borne by council bonds outstanding at the time of the deferment, as determined by the council. Such costs may be deferred only when the council determines that a substantial portion of the territory of a local government unit has not been connected to the metropolitan disposal system, and that the amount of such costs or some portion thereof is disproportionate to the available economic resources of the unit at the time. Such deferred costs shall be allocated to and paid by all local government units in the metropolitan area which will discharge sewage, directly or indirectly, into the metropolitan disposal system in the budget year for which the deferment is granted, in the same manner and proportions as current costs are allocated under subdivision 2. When such deferred costs are repaid they shall be applied in reduction of the total amount of costs thereafter allocated to each of the local government units to which such deferred costs were allocated in the year of deferment, in proportion to their allocations thereof that year.

Subd. 7. [Repealed, 1987 c 53 s 8]

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

Subd. 9. Advisory committees. The council may establish and appoint persons to advisory committees to assist the council in the performance of its wastewater control duties. If established, the advisory committees shall meet with the council to consult with such members concerning the acquisition, betterment, operation and maintenance of interceptors and treatment works in the metropolitan disposal system, and the allocation of costs therefor.

Members of the advisory committee serve without compensation but must be reimbursed for their reasonable expenses as determined by the council.

History: 1975 c 13 s 83; 1987 c 53 s 2-5; 1994 c 628 art 3 s 166-170

473.519 FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972; SYSTEM OF CHARGES.

Each local government unit shall adopt a system of charges for the use and availability of the metropolitan disposal system which will assure that each recipient of waste treatment services within or served by the unit will pay its proportionate share of the current costs allocated to the unit by the council under section 473.517, as required by the federal Water Pollution Control Act amendments of 1972, and any regulations issued pursuant thereto. Each system of charges shall be adopted as soon as possible and shall be submitted to the council. The council shall review each system of charges to determine whether it complies with the federal law and regulations. If it determines that a system of charges does not comply, the adopting unit shall be notified and shall change its system to comply, and shall submit the changes to the council for review. All subsequent changes in a system of charges proposed by a local government unit shall also be submitted to the council for review.

History: 1975 c 13 s 84; 1994 c 628 art 3 s 171

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: 1975 c 13 s 85; 1994 c 628 art 3 s 172-175; 1995 c 236 s 20

473.523 CONTRACTS FOR CONSTRUCTION MATERIALS, SUPPLIES, EQUIPMENT.

Subdivision 1. Subject to section 471.345. All contracts for construction work, or for the purchase of materials, supplies, or equipment relating to the metropolitan disposal system shall be made as provided in section 471.345, subdivisions 3 to 6. Contracts subject to section 471.345, subdivision 3, shall be made by the council by publishing once in a legal newspaper or trade paper published in a city of the first class not less than two weeks before the last day for submission of bids, notice that bids or proposals will be received. Such notice shall state the nature of the work or purchase and the terms and conditions upon which the contract is to be awarded, and a time and place where such bids will be received, opened, and

read publicly. After such bids have been duly received, opened, read publicly, and recorded, the council shall award such contract to the lowest responsible bidder or it may reject all bids and readvertise. Each contract shall be duly executed in writing and the party to whom the contract is awarded shall give sufficient bond or security to the board for the faithful performance of the contract as required by law. The council shall have the right to set qualifications and specifications and to require bids to meet all such qualifications and specifications before being accepted. If the council by an affirmative vote of two-thirds of its members declares that an emergency exists requiring the immediate purchase of materials or supplies at a cost in excess of the amount specified in section 471.345, subdivision 3, or in making emergency repairs, it shall not be necessary to advertise for bids.

Subd. 2. Manager's authority. The manager of wastewater services may, without prior approval of the council and without advertising for bids, enter into any contract of the type referred to in subdivision 1 which is not in excess of the amount specified in section 471.345, subdivision 3.

Subd. 3. [Repealed, 1986 c 460 s 59]

History: 1975 c 13 s 86; 1986 c 460 s 43,44; 1994 c 628 art 3 s 176,177

473.535 CAPITAL IMPROVEMENT PROGRAM; BUDGET.

The council shall prepare and adopt a capital improvement program and a budget for the acquisition or betterment of any interceptors or treatment works determined by the council to be necessary or desirable for the metropolitan disposal system. When the council issues debt under section 473.541, it must be for the projects identified in the adopted capital improvement program and budget.

History: 1975 c 13 s 87; 1986 c 460 s 45; 1994 c 628 art 3 s 178

473.541 DEBT OBLIGATIONS.

Subdivision 1. Certificates of indebtedness. At any time or times after approval of an annual budget, and in anticipation of the collection of tax and other revenues appropriated in the budget, the council may by resolution authorize the issuance, negotiation, and sale, in such form and manner and upon such terms as it may determine, of general obligation certificates of indebtedness in aggregate principal amounts not exceeding 50 percent of the total amount of such appropriations, and maturing not later than April 1 following the close of the budget year. All receipts of tax and other revenues included in the budget, after the expenditure of appropriated funds, shall be irrevocably appropriated to a special fund to pay the principal of and the interest on the certificates when due. If for some reason the anticipated revenues are insufficient to pay the certificates and interest thereon when due, the council shall levy a tax in the amount of the deficiency on all taxable property in the metropolitan area, and shall appropriate this amount to the special fund, to be credited thereto from the first tax and other revenues received in the following budget year.

Subd. 2. Emergency certificates. If in any budget year the receipts of tax and other revenues should from some unforeseen cause become insufficient to pay the council's current wastewater control expenses, or if any calamity or other public emergency should subject it to the necessity of making extraordinary wastewater control expenditures, the council may make an emergency appropriation of an amount sufficient to meet the deficiency and may authorize the issuance, negotiation, and sale of certificates of indebtedness in this amount in the same manner and upon the same conditions as provided in subdivision 1, except that the council shall forthwith levy on all taxable property in the metropolitan area a tax sufficient to pay the certificates and interest thereon, and shall appropriate all collections of such tax to a special fund created for that purpose. The certificates may mature not later than April in the year following the year in which the tax is collectible.

Subd. 3. General obligation bonds. The council may by resolution authorize the issuance of general obligation bonds for the acquisition or betterment of any interceptors or treatment works determined to be necessary or desirable for the metropolitan disposal system, or for the refunding of outstanding bonds, certificates of indebtedness, or judgments. The council shall provide for the issuance and sale and for the security of such 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 no election shall be required and the net debt limitations in chapter 475 shall not apply to such bonds. The council may also pledge for the payment of such bonds any revenues receivable under section 473.517.

Subd. 4. Revenue bonds. (a) The council may, by resolution, authorize the issuance of revenue bonds for any purpose for which general obligation bonds may be issued under subdivision 3. 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 this subdivision, and the council shall have the same powers and duties as a municipality and its governing body in issuing bonds under that chapter. The bonds shall be payable from and secured by a pledge of all or any part of revenues receivable under section 473.517, shall not, and shall state they do 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 net debt limitation. The proceeds of the bonds may be used to pay credit enhancement fees.

(b) 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 revenues and bond proceeds pledged for the payment and security of the bonds. The pledge shall be a valid charge on the revenues received under section 473.517. 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 such parties have notice thereof 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 subdivision 3. In the bond resolution or trust indenture, the council may make such covenants as it determines to be reasonable for the protection of the bondholders, including a covenant to issue general obligation bonds to refund the revenue bonds if and to the extent required to pay principal and interest on the bonds and to certify a deficiency tax levy as provided in section 473.521, subdivision 4.

(c) 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 shall not be payable from nor a charge upon any funds other than the revenues and bond proceeds pledged to the payment thereof, nor shall the council be subject to any liability thereon or have the power to obligate itself to pay or to pay the bonds from funds other than the revenues and bond proceeds pledged, and no holder or holders of bonds shall ever have 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 473.521, subdivision 4) or any other public body, to the payment of principal of or interest on the bonds, nor to enforce payment thereof against any property of the council or other public body other than that expressly pledged for the payment thereof.

History: 1975 c 13 s 88; 1989 c 355 s 13; 1994 c 628 art 3 s 179

473.542 DEPOSITORIES.

The council shall from time to time designate one or more national or state banks, or trust companies authorized to do a banking business, as official depositories for moneys of the council, and thereupon shall require the treasurer to deposit all or a part of such moneys in such institutions. Such 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 council. Any bank or trust company so designated shall qualify as a depository by furnishing a corporate surety bond or collateral in the amounts required by section 118A.03. However, no bond or collateral shall be required to secure any deposit insofar as it is insured under federal law.

History: 1975 c 13 s 89; 1986 c 444; 1994 c 628 art 3 s 180; 1996 c 399 art 2 s 12

473.543 MONEYS, ACCOUNTS AND INVESTMENTS.

Subdivision 1. Disposed of as budgeted; pledges. All moneys from wastewater control operations received by the council shall be deposited or invested by the treasurer and

disposed of as the council may direct in accordance with its waste control budget; provided that any moneys that have been pledged or dedicated by the metropolitan council to the payment of obligations or interest thereon or expenses incident thereto, or for any other specific purpose authorized by law, shall be paid by the treasurer into the fund to which they have been pledged.

Subd. 2. Accounts. The council's treasurer shall establish such funds and accounts as may be necessary or convenient to handle the receipts and disbursements of the council in an orderly fashion.

Subd. 3. Where to deposit; how to invest. The moneys on hand in said funds and accounts may be deposited in the official depositories of the council or invested as hereinafter provided. The amount thereof not currently needed or required by law to be kept in cash on deposit may be invested in obligations authorized for the investment of public funds by section 118A.04. Such moneys may also be held under certificates of deposit issued by any official depository of the council.

Subd. 4. Bond proceeds. The use of proceeds of all bonds issued by the council for the acquisition and betterment of interceptors or treatment works, and the use, other than investment, of all moneys on hand in any sinking fund or funds of the council, shall be governed by the provisions of chapter 475, and the provisions of resolutions authorizing the issuance of such bonds.

Subd. 5. [Repealed, 1994 c 628 art 3 s 209]

History: 1975 c 13 s 90; 1989 c 335 art 4 s 93; 1994 c 628 art 3 s 181-184; 1996 c 399 art 2 s 9

473.545 PROPERTY EXEMPT FROM TAXATION.

Any properties, real or personal, owned, leased, controlled, used, or occupied by the council for any purpose referred to in Minnesota Statutes 1984, section 473.502, are declared to be acquired, owned, leased, controlled, used and occupied for public, governmental, and municipal purposes, and shall be exempt from taxation by the state or any political subdivision of the state, provided that such properties shall be subject to special assessments levied by a political subdivision for a local improvement in amounts proportionate to and not exceeding the special benefit received by the properties from such improvement. No possible use of any such properties in any manner different from their use as part of the metropolitan disposal system at the time shall be considered in determining the special benefit received by such properties. All such assessments shall be subject to final confirmation by the metropolitan council, whose determination of the benefits shall be conclusive upon the political subdivision levying the assessment.

History: 1975 c 13 s 91; 1983 c 213 s 23; 1994 c 628 art 3 s 185; 1996 c 305 art 1 s 105

473.547 TAX LEVIES.

The council shall have power to levy taxes for debt service of the metropolitan disposal system upon all taxable property within the metropolitan area, without limitation of rate or amount and without affecting the amount or rate of taxes which may be levied by the council for other purposes or by any local government unit in the area. The council shall also have power to levy taxes as provided in section 473.521. Each of the county auditors shall annually assess and extend upon the tax rolls in the auditor's county the portion of the taxes levied by the council in each year which is certified to the auditor by the council. Each county treasurer shall collect and make settlement of such taxes with the council in the same manner as with other political subdivisions.

History: 1975 c 13 s 92; 1986 c 444; 1994 c 628 art 3 s 186

473.549 RELATION TO EXISTING LAWS.

The provisions of sections 473.501 to 473.549 shall be given full effect notwithstanding the provisions of any law not consistent therewith. The powers conferred on the council under sections 473.501 to 473.545 shall in no way diminish or supersede the powers conferred on the pollution control agency by sections 103F.701 to 103F.761 and chapters 115 and 116.

History: 1975 c 13 s 93; 1990 c 391 art 10 s 3; 1994 c 628 art 3 s 187

SPORTS FACILITIES

473.551 DEFINITIONS.

Subdivision 1. **Terms.** For the purposes of sections 473.551 to 473.599, the following terms shall have the meanings given in this section.

Subd. 2. **Cities.** "Cities" means the cities of Minneapolis, Bloomington, and Richfield.

Subd. 3. **Commission.** "Commission" means the metropolitan sports facilities commission.

Subd. 4. **Metrodome debt service.** "Metrodome debt service" means the principal and interest due each year on all bonds or revenue anticipation certificates issued by the council under section 473.581.

Subd. 5. **Metropolitan sports area.** "Metropolitan sports area" means the real estate in the city of Bloomington described in the ownership and operations agreement, and all buildings, structures, improvements and equipment thereon including the met center, owned by the cities on May 17, 1977, the date of enactment of sections 473.551 to 473.595, and since transferred to the commission pursuant to sections 473.551 to 473.595.

Subd. 6. **Metropolitan sports area commission.** "Metropolitan sports area commission" means that commission established by an ownership and operations agreement made and entered into as of August 13, 1954, validated by Laws 1955, Chapter 445, to which the cities were parties on May 17, 1977.

Subd. 7. **Multipurpose sports facility.** "Multipurpose sports facility" means a single unit sports facility suitable for university or major league professional baseball, football, and soccer.

Subd. 8. **Sports facility or sports facilities.** "Sports facility" or "sports facilities" means real or personal property comprising a stadium, stadiums, or arenas suitable for university or major league professional baseball, for university or major league professional football and soccer, or for both, or for university or major league hockey or basketball, or for both, together with adjacent parking facilities, including on the effective date of Laws 1994, chapter 648, the metrodome, the met center, and, upon acquisition by the commission, the basketball and hockey arena.

Subd. 9. **Metrodome.** "Metrodome" means the Hubert H. Humphrey Metrodome located in the city of Minneapolis constructed and owned by the commission and financed by the bonds of the council issued pursuant to sections 473.551 to 473.595, including all real estate, buildings, improvements, and equipment in and on them.

Subd. 10. **Basketball and hockey arena.** "Basketball and hockey arena" means the indoor arena building currently occupied and utilized for the playing of university or major league basketball, hockey, and other purposes located in the city of Minneapolis, including all improvements and equipment in the arena and the leasehold or other interest in the arena land appurtenant to the arena, but excluding the health club.

Subd. 11. **Health club.** "Health club" means that separate portion of the basketball and hockey arena building occupied and utilized by a private sports and health club on the effective date of Laws 1994, chapter 648, the improvements and equipment in and on it, and the leasehold or other interest in the arena land appurtenant to it.

Subd. 12. **Met center.** "Met center" means the real estate in the city of Bloomington presently owned by the commission, formerly utilized for major league hockey, and all buildings, improvements, and equipment in and on it.

Subd. 13. **Development agreement.** "Development agreement" means the second amended and restated development agreement among the Minneapolis community development agency, Northwest Racquet, Swim & Health Clubs, Inc., and the city of Minneapolis dated August 5, 1988, and as amended before the effective date of Laws 1994, chapter 648.

Subd. 14. **Ground lease.** "Ground lease" means the ground lease of the arena land between the Minneapolis community development agency and Northwest Racquet, Swim & Health Clubs, Inc., dated August 5, 1988, and as amended before the effective date of Laws 1994, chapter 648.

Subd. 15. **Guarantors.** "Guarantors" means the individuals who have guaranteed to the Minneapolis community development agency and the city of Minneapolis the performance

of the development agreement, ground lease, and certain other obligations pursuant to written guaranty dated February 17, 1988.

Subd. 16. Arena land. "Arena land" means the real estate upon which the basketball and hockey arena and health club have been constructed and any adjacent parcel or parcels which are owned by the city of Minneapolis and subject to the development agreement or the ground lease and all rights, privileges, and easements appertaining to it.

Subd. 17. Basketball and hockey arena debt service. "Basketball and hockey arena debt service" means the principal and interest due each year on all bonds or revenue anticipation certificates issued by the council under section 473.599.

History: 1977 c 89 s 1; 1994 c 648 art 1 s 2

473.552 LEGISLATIVE POLICY; PURPOSE.

The legislature finds that

(a) the population in the metropolitan area has a need for sports facilities and that this need cannot be met adequately by the activities of individual municipalities, by agreements among municipalities, or by the private efforts of the people in the metropolitan area,

(b) the commission's ownership and operation of the metrodome and met center has met in part the foregoing need and has promoted the economic and social interests of the metropolitan area, of the state, and of the public, and

(c) the commission's acquisition of the basketball and hockey arena on the terms and conditions provided in sections 473.598 and 473.599 shall similarly and more fully meet the foregoing needs and promote these interests.

It is therefore necessary for the public health, safety and general welfare to establish a procedure for the acquisition and betterment of sports facilities and to create a metropolitan sports facilities commission.

History: 1977 c 89 s 2; 1994 c 648 art 1 s 3

473.553 COMMISSION; MEMBERSHIP; ADMINISTRATION.

Subdivision 1. General. The metropolitan sports facilities commission is established and shall be organized, structured, and administered as provided in this section.

Subd. 2. Membership. The commission shall consist of six members, appointed by the city council of the city in which the stadium is located plus a chair appointed as provided in subdivision 3.

Subd. 3. Chair. The chair shall be appointed by the governor as the ninth voting member and shall meet all of the qualifications of a member, except the chair need only reside outside the city of Minneapolis. The chair shall preside at all meetings of the commission, if present, and shall perform all other duties and functions assigned by the commission or by law. The commission may appoint from among its members a vice-chair to act for the chair during temporary absence or disability.

Subd. 4. Qualifications. A member shall not during a term of office hold the office of metropolitan council member or be a member of another metropolitan agency or hold any judicial office or office of state government. None of the members appointed by the city council of the city in which the stadium is located shall be an elected public official of that city or of another political subdivision any part of whose territory is shared with that city. Each member shall qualify by taking and subscribing the oath of office prescribed by the Minnesota Constitution, article V, section 6. The oath, duly certified by the official administering it, shall be filed with the chair of the metropolitan council.

Subd. 4a. [Repealed, 1994 c 628 art 3 s 209]

Subd. 5. Terms. The terms of three members shall end the first Monday in January in the year ending in the numeral "5". The terms of the other members and the chair shall end the first Monday in January in the year ending in the numeral "7". The term of each member and the chair shall be four years. The terms shall continue until a successor is appointed and qualified. Members may be removed only for cause.

Subd. 6. Vacancies. A vacancy shall be filled by the appointing authority in the same manner in which the original appointment was made.

Subd. 7. Compensation. Each commission member shall be paid \$50 for each day when the member attends one or more meetings or provides other services, as authorized by the commission, and shall be reimbursed for all actual and necessary expenses incurred in the performance of duties. The chair of the metropolitan sports facilities commission shall receive, unless otherwise provided by other law, a salary in an amount fixed by the members of the commission and shall be reimbursed for reasonable expenses to the same extent as a member. The annual budget of each commission 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 and members only when budgeted.

Subd. 8. Regular and special meetings. The commission shall meet regularly at least once each month, at such time and place as the commission shall by resolution designate. Special meetings may be held at any time upon the call of the chair or a majority of the members, upon written notice to each member at least three days prior to the meeting, or upon such other notice as the commission may by resolution provide. Unless otherwise provided, any action within the authority of the commission may be taken by the affirmative vote of a majority of the members. A majority of all of the members of the commission shall constitute a quorum, but a lesser number may meet and adjourn from time to time and compel the attendance of absent members.

Subd. 9. Personnel code; merit system. (a) The council shall by resolution adopt guidelines for a personnel code relating to the employees of the commission, except that nothing in Laws 1974, chapter 422, shall impair the rights of the commission or employee under sections 473.405 and 473.415. After adoption of the guidelines, the commission shall by resolution adopt a personnel code in general conformance therewith. The code shall include a job classification plan, procedures for employment and promotion of personnel based on merit, procedures for the demotion, suspension, or discharge of employees, procedures for hearing grievances, procedures for salary administration, and such other provisions as the council deems appropriate. In addition, the code shall provide for the development by the commission of affirmative action plans, as provided in section 473.143. The executive director of the commission shall administer the code, and the commission shall not take any action inconsistent with the personnel code.

(b) When a commission employee has been demoted, suspended, or dismissed by the executive director, the employee may, within 30 days after such action becomes effective, file with the commission a written request for a hearing showing the position from which the employee was dismissed, the date of dismissal, and the reason for requesting the hearing, full name and present mailing address. Upon receipt of a request for a hearing the commission shall appoint three of its members to act as an appeal committee and preside at a hearing on the action of the executive director. The hearing shall be held within 30 days after the request is received by the commission, upon written notice mailed or delivered to the employee at the employee's present mailing address, not less than seven days before the hearing. The appeal committee shall approve or disapprove the action of the executive director, and in the case of approval the action of the executive director shall be final. In the case of disapproval the appeal committee may reinstate the employee under such conditions as it deems proper, and may order the payment to the employee of compensation lost as a result of the demotion, suspension or dismissal.

Subd. 10. Secretary and treasurer. At its first regular meeting each year the commission shall appoint a secretary and a treasurer or, in the alternative, a secretary-treasurer. The secretary and treasurer, or secretary-treasurer, may, but need not be, members of the commission, and shall hold office at the pleasure of the commission, subject to the terms of any contract of employment which the commission may enter into with the secretary or treasurer. The secretary shall record the minutes of all meetings of the commission and shall be the custodian of all books and records of the commission except such as the commission shall entrust to the custody of a designated employee. The treasurer shall be the custodian of all monies received by the commission except such as the commission shall entrust to the custody of a designated employee. The commission may appoint a deputy to perform any and all functions of either the secretary or the treasurer.

Subd. 11. **Executive director.** The chair of the commission shall, subject to the approval of the commission, appoint an executive director who shall be chosen solely on the basis of training, experience, and other qualifications, and who shall serve at the pleasure of the commission. The executive director shall attend meetings of the commission, but shall not vote, and shall have the following powers and duties:

(a) See that all resolutions, rules, or orders of the commission are enforced.

(b) Appoint and remove, subject to the provisions of the personnel code adopted pursuant to subdivision 9, upon the basis of merit and fitness, all subordinate officers and regular employees of the commission.

(c) Present to the commission plans, studies, and reports prepared for commission purposes and recommend to the commission for adoption such measures as the executive director deems necessary to enforce or carry out the powers and duties of the commission, or to the efficient administration of the affairs of the commission.

(d) Keep the commission fully advised as to its financial condition, and prepare and submit to the commission its annual budget and such other financial information as it may request.

(e) Recommend to the commission for adoption such rules as the executive director deems necessary for the efficient operation of the commission's functions.

(f) Perform such other duties as may be prescribed by the commission.

Subd. 12. **Commission operating procedures.** (a) The commission shall adopt resolutions and bylaws, an administrative code establishing procedures for commission action, keeping records, approving claims, authorizing and making disbursements, authorizing contracts, safekeeping funds and audit of all financial operations of the commission.

(b) The commission and the council may enter into contracts with each other and with other commissions and governmental units for the joint exercise of powers in the manner provided by section 471.59; provided that the commission shall not enter into any contract with the council which would assign any operations authority, responsibility or function, other than planning or making studies, from the commission to the council.

Subd. 13. **Relocation payment standards.** In all acquisitions the commission shall provide as a cost of acquisition the relocation assistance, services, payments and benefits required by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 84 Stat. 1894 (1971), United States Code, title 42, section 4601, et seq.

Subd. 14. **Membership change.** If the basketball and hockey arena is acquired pursuant to section 473.598, and an appropriation is made pursuant to section 240A.08, then the number of members of the commission shall change, as follows. On January 1 next following the initial appropriation pursuant to section 240A.08, the commission shall consist of eight members plus a chair appointed as provided in subdivision 3. Six members shall be the members appointed by the Minneapolis city council under subdivision 2 and subject to subdivision 5. Two additional members, other than the chair, shall be appointed by the governor; neither of those members shall reside in the city of Minneapolis, and one of those members must reside outside the metropolitan area. The term of one of the members appointed under this subdivision by the governor shall end the first Monday in January 1996 and the term of the other member appointed by the governor shall end the first Monday in January 1998. Thereafter, their terms are as determined under subdivision 5.

History: 1977 c 89 s 3; 1979 c 203 s 2,3; 1982 c 625 s 15; 1986 c 444; 1986 c 460 s 46; 1994 c 628 art 3 s 188-199; 1994 c 648 art 1 s 4,5

473.556 POWERS OF COMMISSION.

Subdivision 1. **General.** The commission shall have all powers necessary or convenient to discharge the duties imposed by law, including but not limited to those specified in this section.

Subd. 2. **Actions.** The commission may sue and be sued, and shall be a public body within the meaning of chapter 562.

Subd. 3. **Acquisition of property.** The commission may acquire by lease, purchase, gift, or devise all necessary right, title, and interest in and to real or personal property deemed

necessary to the purposes contemplated by sections 473.551 to 473.599 within the limits of the metropolitan area.

Subd. 4. Exemption of property. Any real or personal property acquired, owned, leased, controlled, used, or occupied by the commission for any of the purposes of sections 473.551 to 473.599 is declared to be acquired, owned, leased, controlled, used and occupied for public, governmental, and municipal purposes, and shall be exempt from ad valorem taxation by the state or any political subdivision of the state, provided that such properties shall be subject to special assessments levied by a political subdivision for a local improvement in amounts proportionate to and not exceeding the special benefit received by the properties from the improvement. No possible use of any such properties in any manner different from their use under sections 473.551 to 473.599 at the time shall be considered in determining the special benefit received by the properties. All assessments shall be subject to final confirmation by the council, whose determination of the benefits shall be conclusive upon the political subdivision levying the assessment. Notwithstanding the provisions of section 272.01, subdivision 2, or 273.19, real or personal property leased by the commission to another person for uses related to the purposes of sections 473.551 to 473.599, including the operation of the metrodome, met center, and, if acquired by the commission, the basketball and hockey arena shall be exempt from taxation regardless of the length of the lease. The provisions of this subdivision, insofar as they require exemption or special treatment, shall not apply to any real property comprising the met center which is leased by the commission for residential, business, or commercial development or other purposes different from those contemplated in sections 473.551 to 473.599.

Subd. 5. Facility operation. The commission may equip, improve, operate, manage, maintain, and control the metrodome, met center, basketball and hockey arena and sports facilities constructed, remodeled, or acquired under the provisions of sections 473.551 to 473.599.

Subd. 6. Disposition of property. (a) The commission may sell, lease, or otherwise dispose of any real or personal property acquired by it which is no longer required for accomplishment of its purposes. The property shall be sold in accordance with the procedures provided by section 469.065, insofar as practical and consistent with sections 473.551 to 473.599.

(b) The proceeds from the sale of any real property at the metropolitan sports area shall be paid to the council and used for debt service or retirement.

Subd. 7. Contracts. The commission may contract for materials, supplies, and equipment in accordance with section 471.345, except that the commission may employ persons, firms, or corporations to perform one or more or all of the functions of architect, engineer, construction manager, or contractor for both design and construction, with respect to all or any part of a project to build or remodel sports facilities. Contractors shall be selected through the process of public bidding, provided that it shall be permissible for the commission to narrow the listing of eligible bidders to those which the commission determines to possess sufficient expertise to perform the intended functions. Any construction manager or contractor shall certify, before the contracts are finally signed, a construction price and completion date to the commission and shall post a bond in an amount at least equal to 100 percent of the certified price, to cover any costs which may be incurred over and above the certified price, including but not limited to costs incurred by the commission or loss of revenues resulting from incomplete construction on the completion date. The commission shall secure surety bonds as required in section 574.26, securing payment of just claims in connection with all public work undertaken by it. Persons entitled to the protection of the bonds may enforce them as provided in sections 574.28 to 574.32, and shall not be entitled to a lien on any property of the commission under the provisions of sections 514.01 to 514.16.

Subd. 8. Employees; contracts for services. The commission may employ persons and contract for services necessary to carry out its functions. The commission may employ on such terms as it deems advisable persons or firms for the purpose of providing traffic officers to direct traffic on property under the control of the commission and on the city streets in the general area of the property controlled by the commission. The traffic officers shall not be peace officers and shall not have authority to make arrests for violations of traffic rules.

Subd. 9. **Gifts and grants.** The commission may accept gifts of money, property, or services, may apply for and accept grants or loans of money or other property from the United States, the state, any subdivision of the state, or any person for any of its purposes, may enter into any agreement required in connection therewith, and may hold, use, and dispose of such money, property, or services in accordance with the terms of the gift, grant, loan or agreement relating thereto. Except for the acquisition, clearance, relocation, and legal costs referred to in section 473.581, subdivision 3, clauses (d) and (e), the commission shall not accept gifts, grants, or loans valued in excess of \$2,000,000 without the prior approval of the council. In evaluating proposed gifts, grants, loans, and agreements required in connection therewith, the council shall examine the possible short-range and long-range impact on commission revenues and commission operating expenditures.

Subd. 10. **Research.** The commission may conduct research studies and programs, collect and analyze data, prepare reports, maps, charts, and tables, and conduct all necessary hearings and investigations in connection with its functions.

Subd. 11. **Agreements with University.** The commission and the board of regents of the University of Minnesota may enter into agreements and do all other acts necessary to further the functions prescribed in sections 473.551 to 473.599.

Subd. 12. **Use agreements.** The commission may lease, license, or enter into agreements and may fix, alter, charge, and collect rentals, fees, and charges to all persons for the use, occupation, and availability of part or all of any premises, property, or facilities under its ownership, operation, or control for purposes that will provide athletic, educational, cultural, commercial or other entertainment, instruction, or activity for the citizens of the metropolitan area. Any such use agreement may provide that the other contracting party shall have exclusive use of the premises at the times agreed upon.

Subd. 13. **Insurance.** The commission may require any employee to obtain and file with it an individual bond or fidelity insurance policy. It may procure insurance in the amounts it deems necessary against liability of the commission 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. 14. **Small business contracts.** In exercising its powers to contract for the purchase of services, materials, supplies, and equipment, pursuant to subdivisions 5, 7, 8 and 10, the commission shall designate and set aside each fiscal year for awarding to small businesses approximately ten percent of the value of anticipated contracts and subcontracts of that kind for that year, in the manner required of the commissioner of administration for state procurement contracts pursuant to sections 16B.19 to 16B.22. The commission shall follow the rules promulgated by the commissioner of administration pursuant to section 16B.22, and shall submit reports of the kinds required of the commissioners of administration and economic development by section 16B.21.

Subd. 15. [Repealed, 1981 c 356 s 377]

Subd. 16. **Agreements with amateur sports commission.** (a) The commission and the Minnesota amateur sports commission created pursuant to chapter 240A may enter into long-term leases, use or other agreements for the conduct of amateur sports activities at the basketball and hockey arena, and the net revenues from the activities may be pledged for basketball and hockey arena debt service. The commission, with the advice of the Minnesota amateur sports commission, shall establish standards to provide reasonable assurances to other public bodies owning or operating an entertainment or sports complex or indoor sports arena in the metropolitan area that the agreements between the commission and the Minnesota amateur sports commission with respect to the basketball and hockey arena shall not remove the conduct of amateur sports activities currently and traditionally held at such facilities.

(b) Any long-term lease, use, or other agreement entered into by the Minnesota amateur sports commission with the commission under paragraph (a) must also:

(1) provide for a release of the Minnesota amateur sports commission from its commitment under the agreement if the legislature repeals or amends a standing appropriation or

otherwise does not appropriate sufficient money to fund the lease or agreement to the Minnesota amateur sports commission; and

(2) provide for a release of the Minnesota amateur sports commission from its commitment under the agreement and permit it to agree to a per event use fee when the bonds issued for the metrodome under section 473.581 have been retired.

(c) No long-term lease, use, or other agreement entered into by the Minnesota amateur sports commission under paragraph (a) may commit the amateur sports commission to paying more than \$750,000 per year.

(d) Any long-term lease, use, or other agreement entered into under paragraph (a) shall provide that the Minnesota amateur sports commission shall be entitled to use of the basketball and hockey arena for 50 event days per year. In addition, any long-term lease, use, or other agreement entered into under paragraph (a) shall permit the Minnesota amateur sports commission to allow another person or organization to use one or more of its days.

Subd. 17. Creating a condominium. The commission may, by itself or together with the Minneapolis community development agency and any other person, as to real or personal property comprising or appurtenant or ancillary to the basketball and hockey arena and the health club, act as a declarant and establish a condominium or leasehold condominium under chapter 515A or a common interest community or leasehold common interest community under chapter 515B, and may grant, establish, create, or join in other or related easements, agreements and similar benefits and burdens that the commission may deem necessary or appropriate, and exercise any and all rights and privileges and assume obligations under them as a declarant, unit owner or otherwise, insofar as practical and consistent with sections 473.551 to 473.599. The commission may be a member of an association and the chair, any commissioners and any officers and employees of the commission may serve on the board of an association under chapter 515A or 515B.

History: 1977 c 89 s 4; 1979 c 203 s 4-6; 1983 c 257 s 2; 1984 c 544 s 89; 1985 c 248 s 70; 1985 c 295 s 2; 1Sp1985 c 14 art 20 s 17; 1987 c 291 s 230; 1987 c 384 art 2 s 1; 1994 c 648 art 1 s 6

473.561 EXEMPTION FROM COUNCIL REVIEW.

The acquisition and betterment of sports facilities by the commission shall be conducted pursuant to sections 473.551 to 473.599 and shall not be affected by the provisions of sections 473.165 and 473.173.

History: 1977 c 89 s 5; 1994 c 628 art 3 s 200; 1994 c 648 art 1 s 7

473.564 METROPOLITAN SPORTS AREA.

Subdivision 1. [Repealed, 1994 c 648 art 1 s 19]

Subd. 2. Assumption of obligations. Nothing herein shall be construed as imposing upon the council or commission an obligation to compensate the cities or the metropolitan sports area commission for all or any part of the metropolitan sports area or to continue to operate and maintain the metropolitan sports area facilities taken over by the commission.

Subd. 3. Employees. Upon transfer of ownership all persons then employed by the metropolitan sports area commission shall be transferred to the metropolitan sports facilities commission without loss of right or privilege. Nothing in this section shall be construed to give any such person the right or privilege to continue in the same level or classification of employment previously held. The metropolitan sports facilities commission may assign any such person to an employment level and classification which it deems appropriate and desirable in accordance with its personnel code.

History: 1977 c 89 s 6; 1994 c 648 art 1 s 8

473.565 RETIREMENT; ADMINISTRATION; PURCHASES OF PRIOR SERVICE CREDIT.

Subdivision 1. **In MSRS; Exceptions.** All employees of the commission shall be members of the Minnesota state retirement system with respect to service rendered on or after May 17, 1977, except as provided in this section.

Subd. 2. Temporary and part-time employees. Temporary employees hired for a period of less than six months and part-time employees hired to work less than 30 hours per week shall be excluded from membership in the retirement system if the commission certifies them to the executive director of the retirement system as being temporary or part-time employees.

Subd. 3. PERA election. Any employee of the commission who was an employee of the metropolitan sports area commission on May 17, 1977, and who was a member of the public employees retirement association on account of that employment may elect no later than 30 days following transfer of employment to the commission to remain a member of the public employees retirement association. The election shall be made on forms provided by the commission, and the commission shall give immediate notice of any such elections to the executive directors of the public employees retirement association and the Minnesota state retirement system. Any person who makes such an election shall be excluded from membership in the Minnesota state retirement system with respect to employment by the commission. The commission shall make the required employer contributions to the public employees retirement association.

Subd. 4. Retroactive pay, inclusion. Any permanent full-time employee of the commission who was a permanent full-time employee of the metropolitan sports area commission on May 17, 1977, for whom the prior employment was not covered by the public employees retirement association, may obtain allowable service credit in the Minnesota state retirement system by paying to the retirement system (a) an amount equal to four percent of current salary rate multiplied by the days and months of such prior service for which the employee desires to obtain allowable service credit plus (b) a matching amount representing the employer's required contributions, except that the commission may agree to pay the matching amount on behalf of its employees. Proof of prior permanent full-time service and the duration thereof shall be established by the certification of the commission to the executive director of the retirement system. The payments shall be made either in a lump sum or by payroll deduction arranged for on or before July 1, 1978.

History: 1977 c 89 s 7; 1986 c 444

473.568 [Repealed, 1984 c 607 s 2]

473.571 [Repealed, 1994 c 648 art 1 s 19]

473.572 REVISED FINAL DETERMINATION.

Subdivision 1. Determinations before bonds. The council shall make all determinations required by sections 473.581, subdivision 3, and 473.599 before it authorizes the issuance of bonds.

Subd. 2. Self-supporting effort. It is the intent of the legislature that the commission shall, to the maximum extent possible consistent with the provisions of section 473.581, subdivision 3, impose rates, rentals and other charges in the operation of the metrodome which will make the metrodome self supporting so that the taxes imposed under section 473.592 for the metrodome will be at the lowest possible rate consistent with the obligations of the city of Minneapolis as provided in sections 473.551 to 473.595.

History: 1979 c 203 s 1; 1994 c 648 art 1 s 9

473.581 DEBT OBLIGATIONS.

Subdivision 1. Bonds. The council may by resolution authorize the sale and issuance of its bonds for any or all of the following purposes:

- (a) To provide funds for the acquisition or betterment of the metrodome by the commission pursuant to sections 473.551 to 473.595;
- (b) To refund bonds issued hereunder ; and
- (c) To fund judgments entered by any court against the commission or against the council in matters relating to the commission's functions related to the metrodome and the met center.

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 473.551 to 473.595, and the council shall have the same powers and duties as a municipality and its governing body in issuing bonds under that chapter. The bonds may be sold at any price and at public or private sale as determined by the council. They shall be payable solely from tax and other revenues referred to in sections 473.551 to 473.595, excepting only the admissions tax and surcharge related to the basketball and hockey arena provided in section 473.595, subdivision 1a, the taxes for the basketball and hockey arena provided in section 473.592, and other revenues attributable to the basketball and hockey arena. The bonds shall not be a general obligation or debt of the council or of the commission, and shall not be included in the net debt of any city, county, or other subdivision of the state for the purpose of any net debt limitation, provided that nothing herein shall affect the obligation of the city of Minneapolis to levy a tax pursuant to agreements made under the provisions of section 473.592. No election shall be required. The principal amount shall not be limited except as provided in subdivision 3.

Subd. 3. Limitations. The principal amount of the bonds issued pursuant to subdivision 1, clause (a), shall not exceed the amounts hereinafter authorized. If the commission's proposal and the construction contracts referred to in clause (g) of this subdivision provide for the construction of a covered multipurpose sports facility, the total cost of constructing the facility under the construction contracts, not including costs paid from funds provided by others, and the principal amount of bonds issued pursuant to subdivision 1, clause (a), shall be limited to \$55,000,000. If the commission's proposal and the construction contracts do not provide for the construction of a cover on a proposed multipurpose sports facility and the commission does not otherwise contract for the construction or acquisition of a cover for the sports facility, the principal amount shall be limited to \$42,000,000. If the commission's proposal and the construction contracts provide for the construction of a new sports facility for football and soccer and for remodeling the existing metropolitan stadium for baseball, the principal amount shall be limited to \$37,500,000. If the commission's proposal and the construction contracts provide for the reconstruction and remodeling of the existing metropolitan stadium as an uncovered multipurpose sports facility, the principal amount shall be limited to \$25,000,000. The bonds issued pursuant to subdivision 1, clause (a), shall bear an average annual rate of interest, including discount, not in excess of 7-1/2 percent. The proceeds of the bonds issued pursuant to subdivision 1, clause (a), shall be used only for the acquisition and betterment of sports facilities suitable for baseball, football and soccer, with a seating capacity for football and soccer of approximately 65,000 persons. The council shall issue its bonds and construction of sports facilities may commence when the council has made the following determinations:

(a) The commission has executed agreements with major league professional baseball and football organizations to use the metro dome for all scheduled regular season home games and play-off home games and, in the case of the football organization, for at least one-half of its exhibition games played each season. The agreements shall be for a period of not more than 30 years nor less than the term of the longest term bonds that in the council's judgment it may find it necessary to issue to finance the acquisition and betterment of the metro dome. The agreements may contain provisions negotiated between the organizations and the commission which provide for termination upon conditions related and limited to the bankruptcy, insolvency, or financial capability of the organization. The agreements shall provide that, in the event of breach of the agreements, the defaulting organization shall pay damages annually to the commission. The annual payment shall be in an amount equal to the annual average of all revenue derived by the commission from attendance at events and activities of the defaulting organization during the years prior to default, provided that the damages shall not exceed in any year an amount sufficient, with other revenues of the commission but excluding proceeds of the taxes under section 473.592, to pay all expenses of operation, maintenance, administration, and debt service for the use of the metro dome by the defaulting organization during the same year. The damages shall be payable during the period from the occurrence of the default to the date on which another major league professional baseball or football organization, replacing the defaulting organization, enters into a use agreement with the commission for not less than the then remaining term of the original agreement. The agreements with the teams shall provide that no closed circuit or pay television broadcasting of events in the metro dome may be allowed without the approval of the commission. The

agreements shall include provisions protecting the commission and the council in the event of change in ownership of the professional teams.

(b) The commission has executed agreements with professional baseball and football major leagues which guarantee the continuance of franchises in the metropolitan area for the period of the agreements referred to in clause (a).

(c) The proceeds of bonds provided for in this subdivision will be sufficient, together with other capital funds that may be available to the commission for expenditures on the metro dome, to construct or remodel and to furnish the metro dome proposed by the commission, including the appropriate professional fees and charges but excluding, except as otherwise provided in this subdivision, the acquisition, clearance, relocation, and legal costs referred to in clauses (d) and (e).

(d) The commission has acquired, without cost to the commission or the council except as provided in this subdivision, title to all real property including all easements and other appurtenances needed for the construction and operation of the metro dome or has received a grant of funds or has entered into an agreement or agreements sufficient in the judgment of the council to assure the receipt of funds, at the time and in the amount required, to make any payment upon which the commission's acquisition of title and possession of the real property is conditioned.

(e) The commission has received a grant of funds or entered into an agreement or agreements sufficient in the judgment of the council to assure the receipt of funds, at the time and in the amount required, to pay all costs, except as provided in this subdivision, of clearing the real property needed for the construction and operation of the metro dome of all buildings, railroad tracks and other structures, including without limitation all relocation costs, all utility relocation costs, and all legal costs.

(f) The commission has executed agreements with appropriate labor organizations and construction contractors which provide that no labor strike or management lockout will halt, delay or impede construction.

(g) The commission has executed agreements which will provide for the construction of the metro dome for a certified construction price and completion date and which include performance bonds in an amount at least equal to 100 percent of the certified price to cover any costs which may be incurred over and above the certified price, including but not limited to costs incurred by the commission or loss of revenues resulting from incomplete construction on the completion date.

(h) The environmental impact statement for the metro dome has been accepted by the environmental quality board, and the pollution control agency and any other department, agency, or unit of government have taken the actions necessary to permit the construction of the metro dome.

(i) At least 50 percent of the private boxes provided for in the commission's proposal for the metro dome are sold or leased for at least five years.

(j) The anticipated revenue from the operation of the metro dome plus any additional available revenue of the commission and the revenue from the taxes under section 473.592 will be an amount sufficient to pay when due all debt service plus all administration, operating and maintenance expense.

(k) The commission has studied and considered the needs of the University of Minnesota for athletic facilities for a prospective 20 year period.

(l) The city of Minneapolis has entered into an agreement as contemplated in section 473.592 as security for the metro dome debt service.

(m) The commission has entered into an agreement or agreements with a purchaser or purchasers of tickets of admission for a period of not less than 20 years which will assure that whenever more than 90 and less than 100 percent of the tickets of admission for seats at any professional football game, which were available for purchase by the general public 120 hours or more before the scheduled beginning time of the game either at the metro dome where the game is to be played or at the box office closest to the metro dome, have been purchased 72 hours or more before the beginning time of the game, then all of such tickets which remain unsold will be purchased in sufficient time to permit the telecast to areas within the state which otherwise would not receive the telecast because of the terms of an agreement in

which the professional football league has sold or otherwise transferred all or part of the rights of the league's member organizations in the sponsored telecasting of games of the organizations. The party or parties agreeing to the purchase of such unsold tickets shall be obligated for a period of at least 20 years in an amount determined by the council to be sufficient to assure the purchase of all such unsold tickets.

(n) The council has entered into an agreement with the brokerage firm or brokerage firms to be used in connection with the issuance and sale of the bonds guaranteeing that fees and charges payable to the brokerage firm or firms in connection therewith, including any underwriting discounts, shall not exceed fees and charges customarily payable in connection with the issuance and sale of bonds secured by the pledge of the full faith and credit of the city of Minneapolis.

The validity of any bonds issued under subdivision 1, clause (a), and the obligations of the council and commission related thereto, shall not be conditioned upon or impaired by the council's determinations made pursuant to this subdivision. For purposes of issuing the bonds the determinations made by the council shall be deemed conclusive, and the council shall be and remain obligated for the security and payment of the bonds irrespective of determinations which may be erroneous, inaccurate, or otherwise mistaken.

Subd. 4. Security. To the extent and in the manner provided in sections 473.592 and 473.595, the taxes described in section 473.592 for the metrodom, the tax and other revenues of the commission described in section 473.595, subdivision 1, and any other revenues of the commission attributable to the metrodom shall be and remain pledged and appropriated for the payment of all necessary and reasonable expenses of the operation, administration, maintenance, and debt service of the metrodom until all bonds and certificates issued pursuant to this section are fully paid or discharged in accordance with law. Bonds issued pursuant to this section may be secured by a bond resolution, or by a trust indenture entered into by the council with a corporate trustee within or outside the state, which shall define the tax and other metrodom and met center revenues pledged for the payment and security of the bonds. The pledge shall be a valid charge on the tax and other revenues referred to in sections 473.551 to 473.595 (excepting only the admissions tax and surcharge related to the basketball and hockey arena provided in section 473.595, subdivision 1a, taxes described in section 473.592 for the basketball and hockey arena, and other revenues attributable to the basketball and hockey arena) from the date when bonds are first issued or secured under the resolution or indenture and shall secure the payment of principal and interest and redemption premiums when due and the maintenance at all times of a reserve securing such payments. 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 all tax and other revenues received and accounts receivable by the commission or council hereunder, as against the claims of all other persons in tort, contract, or otherwise, irrespective of whether such parties have notice thereof, and without possession or filing as provided in the uniform commercial code or any other law. In the bond resolution or trust indenture the council may make such covenants, which shall be binding upon the commission, as are determined to be usual and reasonably necessary for the protection of the bondholders. No pledge, mortgage, covenant, or agreement securing bonds may be impaired, revoked, or amended by law or by action of the council, commission, or city, except in accordance with the terms of the resolution or indenture under which the bonds are issued, until the obligations of the council thereunder are fully discharged.

Subd. 5. Revenue anticipation certificates. At any time or times after approval by the council and final adoption by the commission of an annual budget of the commission for operation, administration, and maintenance of the metrodom, and in anticipation of the proceeds from the taxes under section 473.592 for the metrodom and the revenues of the commission provided for in the budget, but subject to any limitation or prohibition in a bond resolution or indenture, the council may authorize the issuance, negotiation, and sale, in such form and manner and upon such terms as it may determine, of revenue anticipation certificates. The principal amount of the certificates outstanding shall at no time exceed 25 percent of the total amount of the tax and other revenues anticipated. The certificates shall mature not later than three months after the close of the budget year. Prior to the approval and final adoption of the first annual budget of the commission, the council may authorize up to \$300,000 in

revenue anticipation certificates under this subdivision. So much of the anticipated tax and other revenues as may be needed for the payment of the certificates and interest thereon shall be paid into a special debt service fund established for the certificates in the council's financial records. If for any reason the anticipated tax and other revenues are insufficient, the certificates and interest shall be paid from the first tax and other revenues received, subject to any limitation or prohibition in a bond resolution or indenture. The proceeds of the certificates may be used for any purpose for which the anticipated revenues or taxes may be used or for any purpose for which bond proceeds under subdivision 1 may be used, provided that the proceeds of certificates issued after May 26, 1979, shall not be used to pay capital costs of the metrodome constructed or remodeled pursuant to sections 473.551 to 473.595.

History: 1977 c 89 s 10; 1979 c 26 s 1; 1979 c 203 s 7-10; 1984 c 607 s 1; 1994 c 648 art 1 s 10

473.591 [Repealed, 1979 c 26 s 3]

473.592 TAX REVENUES.

Subdivision 1. **Local sales tax.** The city of Minneapolis may enter into agreements with the metropolitan council and the commission which requires the municipality to impose a sales tax, supplemental to the general sales tax imposed in chapter 297A, for the purposes and in accordance with the requirements specified in sections 473.551 to 473.599. The tax may be imposed:

(a) on the gross receipts from all retail on-sales of intoxicating liquor and fermented malt beverages when sold at licensed on-sale liquor establishments and municipal liquor stores located within the municipality,

(b) notwithstanding any limitations of Laws 1986, chapter 396, section 5, clause (2), on the gross receipts from the furnishing for consideration of lodging for a period of less than 30 days at a hotel, motel, rooming house, tourist court, or trailer camp located within the municipality,

(c) on the gross receipts on all sales of food primarily for consumption on or off the premises by restaurants and places of refreshment as defined by resolution of the city, or

(d) on any one or combination of the foregoing.

A tax under this subdivision shall be imposed only within a downtown taxing area to be determined by the council.

The agreement or agreements between the city, the metropolitan council, and the commission shall require the municipality to impose the tax or taxes at whatever rate or rates may be necessary to produce revenues which are determined by the council from year to year to be required, together with the revenues available to the commission, to pay when due all debt service on bonds and revenue anticipation certificates issued under section 473.581, all debt service on bonds and revenue anticipation certificates issued under section 473.599, and all expenses of operation, administration, and maintenance of the metrodome and the basketball and hockey arena. When it is determined that a tax must be imposed under this subdivision after the effective date of Laws 1994, chapter 648, there shall be added to the rate of the tax imposed for the purposes described in the previous sentence a tax at a rate of 0.25 percent for use by the city to fund recreational facilities and programs in the city's neighborhoods for children and youth through the Minneapolis park and recreation board. The agreements shall provide for the suspension, reimposition, reduction, or increase in tax collections upon determination by the metropolitan council that such actions are appropriate or necessary for the purposes for which the tax is imposed, provided that the balance in each of the metrodome debt service and the basketball and hockey arena debt service fund or funds, including any reserve for debt service, shall be maintained at least at an amount sufficient to pay the principal and interest on bonds which will become due within the next succeeding one year period and, except as otherwise provided by agreement, shall not be maintained at an amount greater than that required to pay principal and interest on bonds which will become due within the next succeeding two-year period. Once the tax is imposed by the city, the tax imposed for the benefit of the Minneapolis park and recreation board shall remain in effect at the rate of 0.25 percent until the bonds issued under section 473.599 have been retired. The agreements shall be executed by the city, after approval by resolution of the city council and before the is-

suance of the bonds under section 473.581 and commencement of construction of the metro-dome or the issuance of bonds under section 473.599 and acquisition of the basketball and hockey arena and shall constitute a contract or contracts with and for the security of all hold-ers of the bonds and revenue anticipation certificates secured by the tax. The metro-dome shall not be constructed or remodeled in a municipality which has not entered into an agree-ment for the metro-dome in accordance with this section. A basketball and hockey arena shall not be acquired in the city of Minneapolis unless the city has entered into an agreement in accordance with this section as security for bonds issued pursuant to section 473.599 and ex-penses of operation, administration, and maintenance of the basketball and hockey arena. The tax shall be reported and paid to the commissioner of revenue with and as part of the state sales and use taxes, and shall be subject to the same penalties, interest, and enforcement pro-visions. The collections of the tax, less refunds and a proportionate share of the costs of collection, shall be remitted at least quarterly to the metropolitan council and the city of Min-neapolis for use by the Minneapolis park and recreation board. The commissioner of revenue shall deduct from the proceeds remitted to the council and the city an amount that equals the indirect statewide costs as well as the direct and indirect department costs necessary to ad-minister, audit, and collect this tax. The amount deducted shall be deposited in the general fund of the state. The proceeds remitted with respect to the metro-dome shall be placed, to-gether with the net revenues of the commission attributable to the metro-dome under section 473.595, into the debt service fund or reserve or special funds, established under section 473.581, and any funds established to secure payment of operating deficits of the commis-sion arising from its ownership and operation of the metro-dome. The proceeds may be used for payment of debt service on bonds and revenue anticipation certificates issued under sec-tion 473.581, and expenses of operation, administration, and maintenance of the metro-dome. The proceeds shall not be used for any capital costs of the metro-dome, except that the pro-ceeds may be used to pay interest on bonds during the construction period.

The proceeds remitted with respect to the basketball and hockey arena shall be placed, together with the net revenues of the commission attributable to the basketball and hockey arena under section 473.595, subdivision 1a, into the debt service fund or reserve or special funds, established under section 473.599, and any funds established to secure payment of operating deficits of the commission arising from its acquisition, ownership, operation, or maintenance of the basketball and hockey arena. The proceeds may be used for payment of debt service on bonds and revenue anticipation certificates issued under section 473.599, and expenses of operation, administration, and maintenance of the basketball and hockey arena.

Subd. 2. MS 1992 [Repealed by amendment, 1994 c 648 art 1 s 11]

History: 1979 c 203 s 11; 1994 c 648 art 1 s 11

473.595 COMMISSION FINANCES.

Subdivision 1. Metrodome admission tax. The commission shall by resolution impose and maintain a ten percent admission tax upon the granting, issuance, sale, or distribution, by any private or public person, association, or corporation, of the privilege of admission to ac-tivities at the metro-dome. No other tax, surcharge, or governmental imposition, except the taxes imposed by chapter 297A, may be levied by any other unit of government upon any such sale or distribution. The admission tax shall be stated and charged separately from the sales price so far as practicable and shall be collected by the grantor, seller, or distributor from the person admitted and shall be a debt from that person to the grantor, issuer, seller, or dis-tributor, and the tax required to be collected shall constitute a debt owed by the grantor, issu-er, seller, or distributor to the commission, which shall be recoverable at law in the same man-ner as other debts. Every person granting, issuing, selling, or distributing tickets for such ad-missions may be required, as provided in resolutions of the commission, to secure a permit, to file returns, to deposit security for the payment of the tax, and to pay such penalties for nonpayment and interest on late payments, as shall be deemed necessary or expedient to as-sure the prompt and uniform collection of the tax.

Notwithstanding any other provisions of this subdivision, the imposition of an admis-sion tax upon a national superbowl football game conducted at the metro-dome is discretion-ary with the commission.

Subd. 1a. Arena admission tax. The commission shall impose a ten percent admission tax on all tickets sold, issued, granted, or distributed for the privilege of admission to the basketball and hockey arena. In addition, the commission shall impose a surcharge in an amount to be determined by the commission, but not less than \$1 per ticket, on all tickets sold, issued, granted, or distributed for the privilege of admission to activities at the basketball and hockey arena. The sales price shall include the price of the ticket and any service or other charge imposed by the grantor, issuer, seller, or distributor upon the reservation, processing, distribution, delivery, or sale of the ticket. No other tax, surcharge, or governmental imposition, except the taxes imposed by chapter 297A, may be levied by any other unit of government upon such a sale or distribution. The admission tax and surcharge for the privilege of admission to activities at the basketball and hockey arena shall be charged and added to the sales price of the ticket, and imposed and collected in the same manner provided for the metrodome pursuant to subdivision 1. The tax and surcharge provided for in this subdivision shall be effective from and after the date of the commission's acquisition of the basketball and hockey arena.

Subd. 2. Rentals; fees; charges. Rentals, fees, and charges provided for in use agreements at the metrodome and basketball and hockey arena entered into by the commission shall be those estimated by the commission to be necessary and feasible to produce so far as possible, with commission revenues from other sources, the amounts needed for current operation, maintenance, and debt service. The commission shall with respect to the met center, the metrodome, and the basketball and hockey arena meet and confer with any public body, authority, or agency owning or operating an entertainment or sports complex, or indoor sports arena, in the metropolitan area, for the purpose of undertaking measures or agreements maximizing revenues and eliminating unnecessary operational expenditures.

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.

Subd. 4. Payment of council costs. The commission shall comply with the provisions of section 473.164.

Subd. 5. Audit. The legislative auditor shall make an independent audit of the commission's books and accounts once each year or as often as the legislative auditor's funds and personnel permit. The costs of the audits shall be paid by the commission pursuant to section 3.9741. The council may examine the commission's books and accounts at any time.

Subd. 6. General. The commission shall receive and account for all tax and other revenue of the commission and from the revenue shall provide, contract, and pay for proper operation, administration, and maintenance of all of its property and facilities and shall maintain, as authorized by resolutions of the council, reserves for major repairs, replacements, and improvements and for working capital. The commission shall remit to the council for deposit in its metrodome debt service funds, at the times required by resolution of the council, the net revenue attributable to the metrodome in excess of these requirements and for deposit in its basketball and hockey arena debt service fund or funds, at the times required by resolution of the council, the net revenue attributable to the basketball and hockey arena in excess of these requirements.

Subd. 7. Sale of seats. The commission may sell seats in any multipurpose sports facility constructed after June 30, 1979 at prices and subject to conditions consistent with this section. Ownership of a seat shall give the owner first preference for purchase of a season ticket of admission for professional sports exhibitions with a right to be seated in the owned seat. An owner may sell or otherwise transfer the rights on whatever terms the owner chooses. Rights to a seat may not be divided. No fee may be charged for a transfer of ownership of a seat. The commission may charge a maintenance fee not exceeding \$10 per year for each seat.

History: 1977 c 89 s 12; 1979 c 203 s 12,13; 1979 c 303 art 10 s 14; 1984 c 502 art 14 s 15; 1984 c 638 s 4; 1986 c 444; 1994 c 628 art 3 s 201; 1994 c 648 art 1 s 12; 1995 c 236 s 18

473.596 ACCESS STREETS AND HIGHWAYS, HIGHWAY USER TAX DISTRIBUTION FUND.

No money derived from the highway user tax distribution fund shall be used to construct, relocate, or improve any streets, highways, or other public thoroughfares, except ones included in the municipal state aid street system established pursuant to article XIV, section 4, of the Minnesota Constitution if such work is done in order to provide or improve access to the metrodome constructed pursuant to sections 473.551 to 473.595. The commissioner of transportation shall determine whether expenditures are in violation of this section.

History: 1979 c 203 s 14; 1980 c 608 s 2; 1994 c 648 art 1 s 13

473.597 [Repealed, 1982 c 501 s 26]

473.598 ARENA ACQUISITION.

Subdivision 1. Commission determination. The commission shall first determine whether to pursue negotiations to acquire the basketball and hockey arena.

Subd. 2. Examination and disclosure of loan terms. Before making a final decision to acquire the basketball and hockey arena, the commission must obtain and examine all the terms, conditions, covenants, and other provisions of any loan agreements between the owners of the arena and third parties that provided financing secured by mortgages on or other security interests in the basketball and hockey arena. These terms specifically include any agreements that require a professional team affiliated with the owner to lease or use the arena or that restrict or limit the authority of the team owners or affiliates to relocate the team. The commission shall make the terms of the agreements available for public inspection.

Subd. 3. Commission proposal. (a) If the commission makes a final determination to acquire the basketball and hockey arena, the commission may then submit to the metropoli-

tan council a proposal to bond for and acquire the basketball and hockey arena. The commission's proposal shall contain all information deemed appropriate or necessary by the council to its determinations pursuant to section 473.599, subdivision 4. The commission, in preparing the proposal for the council, shall require of the sellers and of the professional teams that are potential lessees or other potential lessees and all of their affiliated entities any and all data relevant to the acquisition, financing, ownership, and operation of the basketball and hockey arena, including, but not limited to, contracts, agreements, profit and loss statements, annual audit statements and balance sheets. The commission shall contract with an independent, nationally recognized firm of certified public accountants to perform due diligence and provide an economic feasibility study or report with regard to the data received by the commission from the sellers, the potential lessees, and affiliated entities. In evaluating whether to acquire the basketball and hockey arena, the commission shall consider among other factors, (a) total capital and operating costs of the basketball and hockey arena to the commission and total commission revenues from the basketball and hockey arena over the expected life of the facility, including any contributions by the state, local units of government or other organizations, (b) the total governmental costs associated with the acquisition and operation of the basketball and hockey arena, including the cost to all units and agencies of government as well as the costs to the commission, (c) the net gain or loss of taxes to the state and all local government units, and (d) economic and other benefits accruing to the public.

(b) Before submitting its proposal to the metropolitan council under paragraph (a), the commission shall submit the proposal to the legislative auditor and the department of finance for review, evaluation, and comment. The legislative auditor shall present the evaluation and comments to the legislative audit commission. Both the legislative auditor and the commissioner of finance shall present their evaluation and comments to the chairs of the house taxes, and ways and means committees, to the chair of the state government finance division of the house governmental operations committee, and to the chairs of the senate taxes and finance committees. Any data which is not public data under subdivision 4 shall remain not public data when given to the legislative auditor or the department of finance.

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.

Subd. 5. Hockey agreement. The commission shall exercise its best efforts, consistent with its other obligations under sections 473.551 to 473.599 to attempt to secure an agreement with a major league professional hockey organization to play its home games at the basketball and hockey arena.

History: 1994 c 648 art 1 s 14; 1995 c 186 s 88

473.599 DEBT OBLIGATIONS.

Subdivision 1. Revenues. It is the intent of the legislature that the commission shall, to the maximum extent possible consistent with the provisions of this section, impose rates, rentals, and other charges in the operation of the basketball and hockey arena which together with the admissions tax and surcharge provided in section 473.595, subdivision 1a, will make the basketball and hockey arena self-supporting so that the taxes imposed under section 473.592 for the basketball and hockey arena will be at the lowest possible rate consistent with the obligations of the city of Minneapolis as provided in sections 473.551 to 473.599.

Subd. 2. Bonds. The council shall by resolution authorize the sale and issuance of its bonds for any of the following purposes upon its determination that the conditions of subdivision 4 have been met:

(a) To provide funds for the acquisition or betterment of the basketball and hockey arena by the commission pursuant to sections 473.598 and 473.599;

(b) To refund bonds issued under this section; and

(c) To fund judgments entered by any court against the commission or against the council in matters relating to the basketball and hockey arena.

Subd. 3. 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 473.551 to 473.599, and the council shall have the same powers and duties as a municipality and its governing body in issuing bonds under chapter 475. The council may pledge for the payment of the bonds the net revenues of the commission arising from the commission's operation of the basketball and hockey arena, the tax provided by section 473.592 for the basketball and hockey arena, and the admission tax and surcharge authorized in section 473.595, subdivision 1a. The bonds may be sold at any price and at public or private sale as determined by the council. They shall be payable solely from tax and other revenues referred to in sections 473.551 to 473.599, and shall not be a general obligation or debt of the council or of the commission, and shall not be included in the net debt of any city, county, or other subdivision of the state for the purpose of any net debt limitation, but nothing in this section shall affect the obligation of the city of Minneapolis to levy a tax pursuant to an agreement made under the provisions of section 473.592. No election shall be required. The principal amount shall not be limited except as provided in subdivision 4.

Subd. 4. Limits. The principal amount of the bonds issued pursuant to subdivision 2, clause (a), exclusive of any original issue discount, shall not exceed the total amount of \$42,000,000 plus such amount as the council determines necessary to pay the costs of issuance, fund reserves for operation and debt service, and pay for any bond insurance or other credit enhancement. The bonds may be issued as tax-exempt revenue bonds or as taxable revenue bonds in the proportions that the commission may determine. The proceeds of the bonds issued pursuant to subdivision 2, clause (a), shall be used only for acquisition and betterment of sports facilities suitable for a basketball and hockey arena and the arena land and the related purposes referred to in this subdivision, and for reimbursement of any expenses of the commission related to its determination of whether to acquire the basketball and hockey arena, whenever incurred. The council shall issue its bonds pursuant to subdivision 2, clause (a), and the commission may acquire the basketball and hockey arena and the arena land when the council has made the following determinations:

(a) The commission, the city of Minneapolis or the Minneapolis community development agency, or any or all of them, as the commission may deem appropriate, has executed agreements with a major league professional basketball organization to use the arena for all scheduled regular season home games and play-off home games, and for at least one of its

exhibition games played each season. The agreements shall be for a period of 30 years. The agreements may contain provisions negotiated with the organization which provide for earlier termination of the use of the basketball and hockey arena by the commission upon conditions related to and limited to the bankruptcy or insolvency of the organization. The agreements shall afford to the commission, the city of Minneapolis, or the Minneapolis community development agency, or each or all of them, as the commission deems appropriate, the remedies that are deemed necessary and appropriate to provide reasonable assurances that the major league professional basketball organization or another major league professional basketball organization shall comply with the agreements. The remedies shall include the payment of liquidated damages equivalent to direct and consequential damages incurred by reason of the breach of the agreements and any additional remedies or security arrangements the commission reasonably determines to be effective in accomplishing the purposes of this paragraph. The damages payment may be payable in a lump sum or in installments as the commission may deem appropriate. The commission may require that the agreements include other terms and conditions to provide reasonable assurances that the major league professional basketball team or a successor major league professional basketball team will play the required games at the basketball and hockey arena during the 30-year term of the agreements, or, in the event of a breach, to assure the payment of the required damages. The agreements shall address contingencies that may arise in the event of change of ownership of the professional teams. The agreements with the professional basketball organization for the use of the basketball and hockey arena shall provide for arrangements which the commission may deem necessary or appropriate to accommodate a future agreement between the commission and a professional hockey organization to occupy the basketball and hockey arena, consistent with this section.

(b) The commission has exercised its reasonable efforts to obtain assurances and/or agreements from the professional basketball major league to the extent permitted under applicable federal and state law, that it will not approve the relocation of the major league professional basketball organization if the relocation is in violation of the terms of the agreements referred to in paragraph (a).

(c) The professional basketball team has provided information sufficient to satisfy the council and the commission of the team's ability to comply with the terms of the 30-year lease.

(d) The proceeds of bonds provided for in this subdivision will be sufficient for the purposes for which they are issued.

(e) The commission has acquired, or has contracted to acquire, (i) leasehold title to the arena land together with the estate of the tenant and other rights demised under the ground lease, subject to amendment as provided in clause (o), (ii) ownership of all real and personal property comprising the basketball and hockey arena, and (iii) all easements, appurtenances and other rights, title, or interest deemed by the commission necessary or desirable in connection with the acquisition, financing, ownership, and operation of the basketball and hockey arena.

(f) The percentage of the private boxes provided for in the commission's proposal for the basketball and hockey arena are sold or leased for the period that the commission finds advisable.

(g) The anticipated admission taxes and surcharges and other revenue from the operation of the basketball and hockey arena will be sufficient to pay when due all basketball and hockey arena debt service plus all administration, operating and maintenance expense of the arena.

(h) The city of Minneapolis has entered into an agreement as contemplated in clause (n) and an agreement or agreements as contemplated in section 473.592 with respect to the basketball and hockey arena.

(i) The council has entered into an agreement with the brokerage firm or brokerage firms to be used in connection with the issuance and sale of the bonds guaranteeing that fees and charges payable to the brokerage firm or firms in connection therewith, including any underwriting discounts, shall not exceed fees and charges customarily payable in connection

with the issuance and sale of bonds secured by the pledge of the full faith and credit of the city of Minneapolis.

The validity of any bonds issued under subdivision 2, clause (a), and the obligations of the council and commission related to them, shall not be conditioned upon or impaired by the council's determination made pursuant to this subdivision. For purposes of issuing the bonds the determinations made by the commission and council shall be deemed conclusive, and the council shall be and remain obligated for the security and payment of the bonds irrespective of determinations which may be erroneous, inaccurate, or otherwise mistaken.

(j) The commission has entered into arrangements with any other persons to create a condominium or leasehold condominium, or common interest community or leasehold common interest community, with respect to the building containing the basketball and hockey arena, including the arena playing and spectator areas, and all other portions of the building, and together with the arena land and all other related improvements, easements and other appurtenant and ancillary property and property rights. The Minneapolis community development agency in its capacity as ground lease landlord may be a party to the condominium or common interest community declaration. The condominium or common interest community declaration shall establish the portion of the building containing the health club as a separate unit of the condominium or common interest community, and the commission shall have entered into an agreement or agreements with a private sports and health club organization which shall require that the organization shall purchase or retain ownership of the unit with its own funds and at no cost or expense to the commission, and that the organization shall pay for all utility and other operating costs and expenses including allocated common expenses and pay ad valorem property taxes for the unit. The condominium or common interest community declaration may also establish other units in the condominium or common interest community which shall include the arena playing and spectator areas and may also include office space, restaurant space, locker rooms, private spectator suites or boxes, signage, and other areas, and may also establish common elements, limited common elements and other easements and interests as the commission deems necessary or appropriate. The agreement or agreements between the commission and the private sports and health club organization may also address additional matters which may be the subject of the bylaws or other agreements or arrangements among unit owners of condominiums or common interest communities, either as part of, or separately from, the provisions of chapter 515A or 515B, or any other items as may be ordinarily and customarily negotiated between the commission and the organization.

(k) The private sports and health club organization has executed an assessment agreement pursuant to section 469.177, subdivision 8, obligating payment of ad valorem taxes based on a minimum market value of the health club of at least \$10,000,000 with the city of Minneapolis or the Minneapolis community development agency.

(l) The commission has executed an agreement requiring the commission to remit annually to the Minneapolis community development agency or appropriate agency an amount which together with any ad valorem taxes or other amounts received by the city of Minneapolis or the Minneapolis community development agency from the health club as tax increments equals the debt service required by the tax increment district attributable to the basketball and hockey arena until the current outstanding indebtedness or any refunding thereof has been paid or retired.

(m) The development agreement shall be amended:

(i) so that no payments are due to the city of Minneapolis or the Minneapolis community development agency from the commission or any other person with respect to the sale, ownership or operation of the basketball and hockey arena, except as provided in clauses (k), (l), and (n); and

(ii) to confirm the satisfactory performance of the obligations of the parties to the development agreement on the effective date of the commission's acquisition; provided, that the city of Minneapolis and the Minneapolis community development agency shall not be required to release any claim they may have under the development agreement with respect to the operations or sale of the health club (except as such claim may arise from the commission's acquisition of the basketball and hockey arena and the contemporaneous sale or trans-

fer of the health club to those persons who own the basketball and hockey arena and the health club on the date of the commission's acquisition) or from the operations or sale of the professional basketball organization occupying the basketball and hockey arena or the security they may have under the development agreement or the ground lease to assure its performance, pursuant to the guaranty of the guarantors in the event of any default of the commission under the ground lease, or of the owners of the health club with respect to the payment of ad valorem taxes or any payment due from them under the development agreement as amended in accordance with the provisions of this subdivision.

(n) The commission has executed an agreement with the city of Minneapolis providing that for so long as the commission owns the basketball and hockey arena the city shall not impose any entertainment tax or surcharge on tickets purchased for any and all events at the basketball and hockey arena. The agreement may also provide that the commission shall compensate the city for the forbearance of the entertainment tax in effect on the effective date of Laws 1994, chapter 648, 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. The required funding of the capital reserve shall be in an amount mutually agreed to by the commission and the city.

(o) The ground lease shall be amended by the Minneapolis community development agency to the reasonable satisfaction of the commission to provide:

(i) that the commission's sole financial obligation to the landlord shall be to make the payment provided for in clause (1) from the net revenues of the commission attributable to the operation of the basketball and hockey arena;

(ii) that the term of the lease shall be 99 years;

(iii) that the commission shall have the option to purchase the arena land upon the payment of \$10 at any time during the term of the ground lease, but, unless otherwise agreed to by the Minneapolis community development agency, only after the payment or retirement of the general obligation tax increment bonds previously issued by the city of Minneapolis to assist in financing the acquisition of the arena land; and

(iv) other amendments as the commission deems necessary and reasonable to accomplish its purposes as provided in sections 473.598 and 473.599.

(p) The commission has received a report or reports by qualified consultants on the basketball and hockey arena, the health club and the arena land, based on thorough inspection in accordance with generally accepted professional standards and any correction, repair, or remediation disclosed by the reports has been made to the satisfaction of commission.

Subd. 5. Security. To the extent and in the manner provided in sections 473.592 and 473.595, the taxes described in section 473.592 for the basketball and hockey arena, the tax, surcharge and other revenues of the commission described in section 473.595, subdivision 1a, attributable to the basketball and hockey arena and any other revenues of the commission attributable to the basketball and hockey arena shall be and remain pledged and appropriated for the purposes specified in Laws 1994, chapter 648, article 1, and for the payment of all necessary and reasonable expenses of the operation, administration, maintenance, and debt service of the basketball and hockey arena until all bonds referred to in section 473.599, subdivision 2, are fully paid or discharged in accordance with law. Bonds issued pursuant to this section may be secured by a bond resolution, or by a trust indenture entered into by the council with a corporate trustee within or outside the state, which shall define the tax and other revenues pledged for the payment and security of the bonds. The pledge shall be a valid charge on the tax, surcharge and other revenues attributable to the basketball and hockey arena referred to in sections 473.592, 473.595, subdivision 1a, 473.598, and 473.599 from the date when bonds are first issued or secured under the resolution or indenture and shall secure the payment of principal and interest and redemption premiums when due and the maintenance at all times of a reserve securing the payments. 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 all tax and other revenues received and accounts receivable by the commission or council under sections 473.592 to the extent of the tax im-

posed as security for the debt service of the basketball and hockey arena, 473.595, subdivision 1a, 473.598, and 473.599, as against the claims of all other persons in tort, contract, or otherwise, irrespective of whether the parties have notice of them, and without possession or filing as provided in the uniform commercial code or any other law. In the bond resolution or trust indenture the council may make the covenants, which shall be binding upon the commission, as are determined to be usual and reasonably necessary for the protection of the bondholders. No pledge, mortgage, covenant, or agreement securing bonds may be impaired, revoked, or amended by law or by action of the council, commission, or city, except in accordance with the terms of the resolution or indenture under which the bonds are issued, until the obligations of the council under the resolution or indenture are fully discharged.

Subd. 6. Revenue anticipation certificates. After approval by the council and final adoption by the commission of an annual budget of the commission for operation, administration, and maintenance of the basketball and hockey arena, and in anticipation of the proceeds from the taxes under section 473.592 and the revenues of the commission provided for in the budget, but subject to any limitation or prohibition in a bond resolution or indenture, the council may authorize the issuance, negotiation, and sale, in the form and manner and upon the terms that it may determine, of revenue anticipation certificates. The principal amount of the certificates outstanding shall at no time exceed 25 percent of the total amount of the tax and other revenues anticipated. The certificates shall mature not later than three months after the close of the budget year. Prior to the approval and final adoption of the annual budget of the commission, the council may authorize revenue anticipation certificates under this subdivision. So much of the anticipated tax and other revenues as may be needed for the payment of the certificates and interest on them shall be paid into a special debt service fund established for the certificates in the council's financial records. If for any reason the anticipated tax and other revenues are insufficient, the certificates and interest shall be paid from the first tax, surcharge and other revenues received attributable to the basketball and hockey arena, subject to any limitation or prohibition in a bond resolution or indenture. The proceeds of the certificates may be used for any purpose for which the anticipated revenues or taxes may be used or for any purpose for which bond proceeds under subdivision 2 may be used.

Subd. 7. Arena free of mortgages, liens, and obligations. With the exception of the obligations imposed by sections 473.598 and 473.599, the commission shall not assume any notes, pledges, mortgages, liens, encumbrances, contracts, including advertising contracts or marquee agreements, or other obligations upon acquisition of the basketball and hockey arena or the arena land, including but not by way of limitation, management or concession agreements. Upon acquisition by the commission, the basketball and hockey arena and the arena land shall be free of all liens and encumbrances, including the foregoing but excluding the easements and rights-of-way that the commission shall determine do not materially impair or affect its ownership and operation of the basketball and hockey arena. Upon acquisition, the commission shall, through a process involving statewide public participation, select a name for the basketball and hockey arena. In the process of selecting the name, the commission shall consider its obligation under section 473.599, subdivision 1, but that obligation must not be the principal consideration in making the selection.

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: 1994 c 648 art 1 s 15; 1995 c 186 s 89

AIRPORTS COMMISSION

473.601 DEFINITIONS.

Subdivision 1. **Terms.** The following words, terms and phrases shall, for the purposes of sections 473.601 to 473.679 be given the meanings subjoined to them.

Subd. 2. **Commission and corporation.** "Commission" and "corporation" each means a metropolitan airports commission, organized and existing under the provisions of sections 473.601 to 473.679.

Subd. 3. **City council or council.** "City council" or "council" means the governing body of each of the cities of Minneapolis and St. Paul.

Subd. 4. **Commissioner.** "Commissioner" means a person appointed or otherwise selected as, and, after qualification, acting as, a member of the corporation.

Subd. 5. **The commissioners.** "The commissioners" means a quorum of the members of the corporation, acting as the governing body of the corporation.

Subd. 6. **City or each city.** "City" or "each city" means one of the cities of Minneapolis and St. Paul.

History: 1975 c 13 s 94; 1986 c 444

473.602 DECLARATION OF PURPOSES.

It is the purpose of sections 473.601 to 473.679 to:

(1) promote the public welfare and national security; serve public interest, convenience, and necessity; promote air navigation and transportation, international, national, state, and local, in and through this state; promote the efficient, safe, and economical handling of air commerce; assure the inclusion of this state in national and international programs of air transportation; and to those ends to develop the full potentialities of the metropolitan area in this state as an aviation center, and to correlate that area with all aviation facilities in the entire state so as to provide for the most economical and effective use of aeronautic facilities and services in that area;

(2) assure the residents of the metropolitan area of the minimum environmental impact from air navigation and transportation, and to that end provide for noise abatement, control of airport area land use, and other protective measures; and

(3) promote the overall goals of the state's environmental policies and minimize the public's exposure to noise and safety hazards around airports.

To achieve these purposes, the corporation shall cooperate with and assist the metropolitan council, the federal government, the commissioner of transportation of this state, the pollution control agency, and others engaged in aeronautics or the promotion and regulation of aeronautics and shall seek to coordinate its activities with the aeronautical activities of these bodies.

History: 1975 c 13 s 95; 1976 c 166 s 7; 1988 c 664 s 1

473.6021 PUBLIC NECESSITY AND PURPOSE FOR BONDS.

In order to accomplish the public purposes set forth in section 473.602; to encourage and facilitate the retention and expansion of airline corporations' facilities, operations, and services in the metropolitan area and the state; to prevent the loss of jobs and encourage and promote the creation of additional jobs in the state in the airline industry and in other businesses in the state served or affected by the airline industry; to promote the continued growth, and reduce the potential for and effects of a decline of economic activity in the metropolitan area and the state; and to ensure the preservation, growth, and diversification of the tax base of the metropolitan area and the state; it is necessary and appropriate and in the public interest

to authorize the commission to take the actions described in section 473.667, subdivision 11, and Laws 1991, chapter 350, article 2, section 3.

History: 1991 c 350 art 2 s 2

473.603 METROPOLITAN AIRPORTS COMMISSION; CREATION.

Subdivision 1. For the purposes provided in sections 473.601 to 473.679 the metropolitan airports commission has been created as a public corporation. Except as provided otherwise in Laws 1974, chapter 455, the existence and the powers, responsibilities, rights, and obligations of this corporation are confirmed and extended in accordance with the provisions of those sections, as they now exist and as they are now and may hereafter be amended and supplemented.

Subd. 2. The commission shall be organized, structured and administered as provided in sections 473.601 to 473.679.

History: 1975 c 13 s 96

473.604 MEMBERSHIP, GOVERNMENT.

Subdivision 1. **Composition.** The commission consists of:

(1) the mayor of each of the cities, or a qualified voter appointed by the mayor, for the term of office as mayor;

(2) eight members, appointed by the governor from each of the following agency districts:

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

Each member shall be a resident of the district represented. Before making an appointment, the governor shall consult with each member of the legislature from the district for which the member is to be appointed, to solicit the legislator's recommendation on the appointment;

(3) four members appointed by the governor from outside of the metropolitan area to reflect fairly the various regions and interests throughout the state that are affected by the operation of the commission's major airport and airport system. Two of these members must be residents of statutory or home rule charter cities, towns, or counties containing an airport designated by the commissioner of transportation as a key airport. The other two must be residents of statutory or home rule charter cities, towns, or counties containing an airport designated by the commissioner of transportation as an intermediate airport. The members must be appointed by the governor as follows: one for a term of one year, one for a term of two years, one for a term of three years, and one for a term of four years. All of the terms start on July 1, 1989. The successors of each member must be appointed to four-year terms commencing on the first Monday in January of each fourth year after the expiration of the original term. Before making an appointment, the governor shall consult each member of the legislature representing the municipality or county from which the member is to be appointed, to solicit the legislator's recommendation on the appointment; and

(4) a chair appointed by the governor for a term of four years. The chair may be removed at the pleasure of the governor.

Subd. 2. **Terms of office.** Each mayor, or any voter appointed by the mayor instead, shall serve as a commissioner for the term of office of such mayor. The office of any commissioner who is a member of a city council or board shall become vacant when for any reason the commissioner ceases to hold the city office to which elected, and the office of any commissioner shall become vacant upon the occurrence of any event referred to in section 351.02. Except as provided in the preceding sentences of this subdivision, each commission-

er shall serve until a successor is duly appointed and has qualified. Any vacancy in the office of a commissioner shall immediately be filled for the unexpired term, and in such case, or when the term of a commissioner expires, a successor shall be chosen in the same manner as was the predecessor, and the appointment shall be evidenced in the same manner.

Subd. 3. Resolution of appointment; oath. The clerk, secretary, or other appropriate official of each appointing public body shall immediately file with the secretary of state a certified copy of each resolution appointing commissioners. The city clerk of each city, upon the election and qualification of each new mayor thereof, shall file with the secretary of state a certificate stating the mayor's full name and address, and that such mayor has elected to act as a commissioner, or, in the event such mayor has appointed some other qualified voter instead, shall file a certified copy of the order of the mayor appointing such commissioner. The governor shall file appointments in the same office. Each person selected as a commissioner shall thereupon file in the same office the oath of office prescribed by the state Constitution, article V, section 5, subscribed by the person and certified by the officer administering the same.

Subd. 4. Governor's appointments to vacancies. Should any of the said appointments not be made within 60 days after the commencement of the term for which it is to be made, the governor shall upon the request of the chair select and appoint such commissioners as have not been so designated. Any commissioner so appointed by the governor shall be a legal voter of the city, county, or precinct for which appointed. Upon filing the oath of office required by subdivision 3, the appointee shall have all the rights, privileges, and powers of a commissioner duly appointed as provided in subdivision 2. If thereafter any vacancy in the office of a commissioner shall not be promptly filled, the governor may upon request of the chair proceed as in this subdivision provided.

Subd. 5. Meetings. The commission shall meet regularly at least once each month, at such time and place as the commission shall by resolution designate. Special meetings may be held at any time upon the call of the chair or any two other members, upon written notice sent by certified mail to each member at least three days prior to the meeting, or upon such other notice as the commission may by resolution provide, or without notice if each member is present or files with the secretary a written consent to the meeting either before or after the meeting. Unless otherwise provided, any action within the authority of the commission may be taken by the affirmative vote of a majority of all the members. A majority of all of the members of the commission shall constitute a quorum, but a lesser number may meet and adjourn from time to time and compel the attendance of absent members.

Subd. 6. Audit. The legislative auditor shall audit the books and accounts of the commission once each year or as often as the legislative auditor's funds and personnel permit. The commission shall pay the total cost of the audit pursuant to section 3.9741.

Subd. 7. [Repealed, 1996 c 305 art 1 s 106]

History: 1975 c 13 s 97; 1976 c 2 s 172; 1983 c 171 s 1; 1984 c 638 s 5; 1986 c 444; 1987 c 223 s 1; 1987 c 278 s 20,21; 1989 c 279 s 2; 1993 c 314 s 6; 1994 c 628 art 3 s 202

473.605 ORGANIZATION; CORPORATE SEAL; BYLAWS.

Subdivision 1. Also rules, meetings. The commissioners shall adopt a corporate seal and shall adopt bylaws for the regulation of the affairs of the corporation and rules of procedure governing their actions, not inconsistent with law. The bylaws shall provide for regular meetings of the corporation to be held at least once in each month and for special meetings.

Subd. 2. Per diem, expenses; exception. Each commission member shall receive \$50 per diem compensation and be reimbursed for actual and necessary expenses. The chair shall receive a salary as prescribed in section 15A.081, subdivision 7, and shall be reimbursed for reasonable expenses to the same extent as a member. The mayors and members of the city councils of Minneapolis and St. Paul shall not be eligible for per diem compensation. The annual budget of the commission 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 and members only when budgeted.

Subd. 3. Removal. The removal of residence of any commissioner from the area from which appointed or otherwise selected as a representative shall operate as a resignation of office. Any commissioner may be removed from office by the appointing body or person for misfeasance, malfeasance, or nonfeasance in office, upon written charges and after an opportunity to be heard in defense of the charges.

History: 1975 c 13 s 98; 1977 c 417 s 1,2; 1Sp1985 c 13 s 356; 1986 c 444; 1989 c 209 art 1 s 56; 1990 c 460 s 3; 1994 c 628 art 3 s 203

473.606 OFFICERS.

Subdivision 1. At pleasure; compensation. The corporation shall elect from its membership a vice-chair and shall elect a secretary and a treasurer, who may or may not be one of the commissioners. The vice-chair, the secretary, and the treasurer shall hold office at the pleasure of the corporation, and the secretary and the treasurer, if not a commissioner, shall receive compensation as determined by the corporation.

Subd. 2. Chairs, secretary. The chair, vice-chair, and secretary shall have such powers and perform such duties as may be given or imposed upon them by sections 473.601 to 473.679, or by the bylaws of the corporation.

Subd. 3. Treasurer; investments. The treasurer shall receive and be responsible for all moneys of the corporation, from whatever source derived, and the same shall be considered public funds. The treasurer shall disburse the moneys of the corporation only on orders made by the executive and operating officer, herein provided for, countersigned by such other officer or such employee of the corporation as may be authorized and directed so to do by the corporation, showing the name of the claimant and the nature of the claim. No disbursement shall be certified by such officers until the same have been approved by said commissioners at a meeting thereof. Whenever the executive director of the corporation shall certify, pursuant to action taken by the commissioners at a meeting thereof, that there are moneys and the amount thereof in the possession of the treasurer not currently needed, then the treasurer may invest said amount or any part thereof in:

(a) Treasury bonds, certificates of indebtedness, bonds or notes of the United States of America, or bonds, notes or certificates of indebtedness of the state of Minnesota, all of which must mature not later than three years from the date of purchase.

(b) Bonds, notes, debentures or other obligations issued by any agency or instrumentality of the United States or any securities guaranteed by the United States government, or for which the credit of the United States is pledged for the payment of the principal and interest thereof, all of which must mature not later than three years from date of purchase.

(c) Commercial paper of prime quality, or rated among the top third of the quality categories, not applicable to defaulted paper, as defined by a nationally recognized organization which rates such securities as eligible for investment in the state employees retirement fund except that any nonbanking issuing corporation, or parent company in the case of paper issued by operating utility or finance subsidiaries, must have total assets exceeding \$500,000,000. Such commercial paper may constitute no more than 30 percent of the book value of the fund at the time of purchase, and the commercial paper of any one corporation shall not constitute more than four percent of the book value of the fund at the time of such investment.

(d) Any securities eligible under the preceding provisions, purchased with simultaneous repurchase agreement under which the securities will be sold to the particular dealer on a specified date at a predetermined price. In such instances, all maturities of United States government securities, or securities issued or guaranteed by the United States government or an agency thereof, may be purchased so long as any such securities which mature later than three years from the date of purchase have a current market value exceeding the purchase price by at least five percent on the date of purchase, and so long as such repurchase agreement involving securities extending beyond three years in maturity be limited to a period not exceeding 45 days.

(e) Certificates of deposit issued by any official depository of the commission. The commission may purchase certificates of deposit from a depository bank in an amount exceeding that insured by federal depository insurance to the extent that those certificates are

secured by collateral maintained by the bank in a manner as prescribed for investments of the state board of investment.

(f) Securities approved for investment under section 118A.04.

Whenever it shall appear to the commissioners that any invested funds are needed for current purposes before the maturity dates of the securities held, they shall cause the executive director to so certify to the treasurer and it shall then be the duty of the treasurer to order the sale or conversion into cash of the securities in the amount so certified. All interest and profit on said investments shall be credited to and constitute a part of the funds of the commission. The treasurer shall keep an account of all moneys received and disbursed, and at least once a year, at times to be designated by the corporation, file with the secretary a financial statement of the corporation, showing in appropriate and identifiable groupings the receipts and disbursements since the last approved statements; moneys on hand and the purposes for which the same are appropriated; and shall keep an account of all securities purchased as herein provided, the funds from which purchased and the interest and profit which may have accrued thereon, and shall accompany the financial statement aforesaid with a statement setting forth such account. The corporation may pay to the treasurer from time to time compensation in such amount as it may determine to cover clerk hire to enable the treasurer to carry out duties and those required in connection with bonds issued by the corporation as in this act authorized.

Subd. 4. Executive director. The corporation shall appoint an executive director, who shall be the executive and operating officer of the corporation, shall serve at the pleasure of the corporation, and shall receive compensation as determined by it. The director shall have had experience as a business executive, preferably in connection with aviation and in the promotion of business enterprises. Under the supervision of the corporation, the director shall be responsible for the operation, management, and promotion of all activities with which the corporation is charged, together with other duties prescribed by the corporation. The director shall have the powers necessarily incident to the performance of duties and those other powers granted by the corporation, but shall not have authority to incur liability or make expenditures on behalf of the corporation without general or specific directions by the corporation, as shown by the bylaws or minutes of a meeting thereof.

Subd. 5. Employees, others, affirmative action; prevailing wage. The corporation shall have the power to appoint engineers and other consultants, attorneys, and such other officers, agents, and employees as it may see fit, who shall perform such duties and receive such compensation as the corporation may determine, and be removable at the pleasure of the corporation. The corporation shall adopt an affirmative action plan, which shall be submitted to the appropriate agency or office of the state for review and approval. The plan shall include a yearly progress report to the agency or office. Officers and employees of the corporation who cannot qualify and participate in the municipal employees retirement fund under chapter 422A, shall be separated from service at the retirement age applicable to officers or employees of the state of Minnesota in the classified service of the state civil service as provided in section 43A.34, or as the same may from time to time be amended, regardless of the provisions of the veteran's preference act. Whenever the corporation performs any work within the limits of a city of the first class, or establishes a minimum wage for skilled or unskilled labor in the specifications or any contract for work within one of the cities, the rate of pay to such skilled and unskilled labor shall be the prevailing rate of wage for such labor in that city.

Subd. 6. Suits, indemnification, premiums. The corporation may indemnify any commissioner, officer, or employee for loss or expense arising or resulting from any claim made because of bodily injury, death or property damage sustained by reason of performance of official duties for the corporation, including bodily injury, death or property damage sustained by reason of operation of a motor vehicle while performing official duties. It may defend any suit brought against any such commissioner, officer, or employee to enforce any such claim and may settle any such claim or suit and pay the amount of any such settlement or the amount of any final judgment rendered against any such commissioner, officer, or employee on any such claim without first requiring payment on it. It may pay the premium on any insurance policy which insures any commissioner, officer, or employee of the corporation or any group of such commissioners, officers, or employees against liability for injuries to person or property within the limitations of this paragraph. It may take such action as may

be necessary to bring the corporation and its commissioners, officers, and employees within the provisions and limitations of chapter 170.

Subd. 7. Waiver of governmental function defense. Any insurance contract covering such risk shall contain, as a condition precedent, a clause or provision expressly waiving the defense, by the insurer, that the corporation is engaged in a governmental function.

History: 1975 c 13 s 99; 1977 c 417 s 3,4; 1978 c 466 s 1; 1981 c 210 s 54; 1Sp1985 c 13 s 357; 1986 c 444; 1990 c 440 s 2; 1996 c 399 art 2 s 12

473.608 POWERS OF CORPORATION.

Subdivision 1. General corporate powers, where exercised. The corporation, subject to the conditions and limitations prescribed by law, shall possess all the powers as a body corporate necessary and convenient to accomplish the objects and perform the duties prescribed by sections 473.601 to 473.679, including but not limited to those hereinafter specified. These powers, except as limited by section 473.622, may be exercised at any place within 35 miles of the city hall of either Minneapolis or St. Paul, and in the metropolitan area, and in the city of Duluth for the purpose of owning, leasing, constructing, equipping, operating, borrowing money from the state for, or otherwise arranging for financing the facility described in section 116R.02, subdivision 5.

Subd. 1a. Loan terms, conditions. A state loan to finance the facility described in section 116R.02, subdivision 5, must be made on terms and conditions as the commissioner of finance, the commissioner of trade and economic development, and the commission determine to be appropriate. The state loan is not subject to and may not be counted against any limitation on the principal amount of revenue bonds or general obligation revenue bonds that the commission may issue under sections 473.601 to 473.679.

Subd. 2. Getting airport property. It may acquire by lease, purchase, gift, devise, or condemnation proceedings all necessary right, title, and interest in and to lands and personal property required for airports and all other real or personal property required for the purposes contemplated by sections 473.601 to 473.679, within the metropolitan area, pay therefor out of funds obtained as hereinafter provided, and hold and dispose of the same, subject to the limitations and conditions herein prescribed except that the corporation may not acquire by any means lands or personal property for a major new airport. Title to any such property acquired by condemnation or purchase shall be in fee simple, absolute, unqualified in any way, but any such real or personal property or interest therein otherwise acquired may be so acquired or accepted subject to any condition which may be imposed thereon by the grantor or donor and agreed to by the corporation, not inconsistent with the proper use of the property by the corporation for the purposes herein provided. Any properties, real or personal, acquired, owned, leased, controlled, used, and occupied by the corporation for any of the purposes of sections 473.601 to 473.679, are declared to be acquired, owned, leased, controlled, used, and occupied for public, governmental, and municipal purposes, and shall be exempt from taxation by the state or any of its political subdivisions. Nothing contained in sections 473.601 to 473.679, shall be construed as exempting properties, real or personal, leased from the metropolitan airports commission to a tenant or lessee who is a private person, association, or corporation from assessments or taxes.

Subd. 3. Eminent domain. It may exercise the right of eminent domain in the manner provided by chapter 117 for the purpose of acquiring any property which it is herein authorized to acquire by condemnation. The fact that the property so needed has been acquired by the owner under power of eminent domain, or is already devoted to a public use, shall not prevent its acquisition by such corporation by the exercise of the right of eminent domain herein conferred. The corporation may take possession of any such property so to be acquired at any time after the filing of the petition describing the same in condemnation proceedings. It shall not be precluded from abandoning the condemnation of any such property in any case where possession thereof has not been taken. When the airports owned by the affected cities are taken over by the corporation under the provisions of Laws 1943, Chapter 500, all persons who are employees of the public body having the management and control of such airport at the time of the taking of the same, shall preserve their status and be entitled to all the rights and privileges under the provisions of any civil service or pension act contained in any

charter of any city under which they had been previously employed, or any applicable law of the state of Minnesota.

Subd. 4. Suits. It may sue and be sued.

Subd. 5. Contracts. It may contract and be contracted within any matter connected with any purpose or activity within the powers of the corporation as specified in sections 473.601 to 473.679.

Subd. 6. New airports; exception. It may construct and equip new airports, with all powers of acquisition set out in subdivision 2, pay therefor out of the funds obtained as hereinafter provided, and hold, maintain, operate, regulate, police, and dispose of them or any of them as hereinafter provided. It may not construct, equip, or acquire land for a major new airport to replace the existing Minneapolis-St. Paul International Airport, but it may conduct activities necessary to do long-range planning to make recommendations to the legislature on the need for new airport facilities.

Subd. 7. Existing airports. In addition to the municipal airports taken over by the corporation under the provisions of Laws 1943, Chapter 500, the corporation may acquire by lease, purchase, gift, devise, or condemnation proceedings any existing airports, equip the same and make additions thereto or improvements thereon, pay therefor out of the funds obtained as hereinafter provided, and hold, maintain, operate, regulate, police, and dispose of them or any of them as hereinafter provided; provided, that said corporation shall have no authority to dispose of nor lease municipally owned airports taken over under the provisions of sections 473.601 to 473.679; and provided further, that the corporation shall not acquire a municipally owned airport without the consent of such municipality.

Subd. 8. Private airports. It may contract with the owners of existing privately owned airports for the use, equipment, improvement, maintenance, management, and operation by it of such airports, and thereafter use, equip, improve, maintain, manage, operate, regulate, and police them.

Subd. 9. Air rights. It may acquire such air rights over private property as are necessary to insure safe approaches to the landing areas of all airports controlled by it, in the manner provided in subdivision 2 for the acquisition of airport property.

Subd. 10. Easements, rights for lights, markings. It may acquire rights or easements for terms of years, or perpetually, to place, operate, and maintain suitable markings and lights for daytime or nighttime marking of buildings or other structures or obstructions, for the safe operation of aircraft utilizing airports to be acquired or maintained under the provisions of sections 473.601 to 473.679, in the manner provided in subdivision 2 for the acquisition of airport property.

Subd. 11. Supplies and materials. It may purchase all supplies and materials necessary in carrying out the purposes of sections 473.601 to 473.679.

Subd. 12. Bonds, other debt. It may borrow money and issue bonds for the purposes of acquiring property, the acquisition of which is herein authorized, constructing and equipping new airports, acquiring existing airports, equipping them and making additions thereto or improvements thereon, and making capital improvements to any airport constructed or acquired by the corporation, or for the purpose of making payments on principal or interest of bonds heretofore issued by either of the cities or any board of park commissioners of either thereof to secure funds for the acquisition, establishment, construction, enlargement or improvement of any airport taken over by the corporation pursuant to the provisions of section 473.621, payment of which has been assumed by the corporation, in the manner and within the limitations herein specified, and pledge any and all property and income of the corporation acquired or received as herein provided to secure the payment of such bonds, subject to the conditions and limitations herein prescribed, and redeem any such bonds if so provided therein or in the mortgage or deed of trust accompanying them, and may assume the payment of existing bonded indebtedness as specifically provided in sections 473.601 to 473.679.

Subd. 12a. Revenue bonds. (a) The commission may issue general airport revenue bonds, special facilities bonds, and passenger facility charge bonds to fund:

- (1) airports and air navigation facilities;
- (2) other capital improvements at airports managed by the commission;

(3) noise abatement and natural resource protection measures, regardless of location and ownership;

(4) transportation and parking improvements related to airports managed by the commission, regardless of location; and

(5) the refund of any outstanding obligations of the commission.

The commission may secure the bonds with available revenue in accordance with generally accepted public financial practices under a resolution of the commission or trust indenture for the bonds. The bonds may not be secured by the full faith and credit of the commission or a pledge of the taxing authority of the commission or of any city in or for which the commission has been created.

(b) The commission shall notify the commissioner of finance, the chair of the taxes committee of the house of representatives, and the chair of the taxes and tax laws committee of the senate of any proposal to issue bonds under this subdivision and provide them an opportunity to review the proposal.

(c) The commission may obligate itself to establish, revise, and collect rates, fees, charges, and rentals for all airport and air navigation facilities used by or made available to any person, firm, association, or corporation to produce revenues sufficient:

(1) to pay principal and interest on all obligations of the commission;

(2) to fund reserves for the bonds;

(3) to pay other commission expenses in accordance with law.

(d)(1) Any pledge of revenues under this section is subordinate to the pledge of current revenues to cancel taxes levied for general obligation revenue bonds issued under section 473.665.

(2) Subject to clause (1), if the bonds meet the conditions of section 473.667, subdivision 7, the commission may pledge revenues to the revenue bonds issued under this subdivision on a parity with the pledge of revenues to general obligation revenue bonds issued under section 473.667. The pledge of revenues to revenue bonds issued under this subdivision may be prior to the obligation under section 473.667, subdivision 6, to repay any deficiency taxes levied for general obligation revenue bonds.

(3) The commission may pledge revenues of any discrete facility or portions of the airport and air navigation facilities of the commission to the bonds. The commission may establish reserves from any available funds or the proceeds of the bonds and may make other covenants as it deems necessary to protect the holders of the bonds. Passenger facility charge bonds may pledge receipts from passenger facility charges separately or together with a pledge of other revenues.

(e) The commission may use any powers under chapter 475, except the power to issue general obligation bonds.

Subd. 13. Use of money. It may use for the following purposes any available moneys received by it from any source as herein provided, in excess of those appropriated, donated, loaned, or otherwise paid over to the corporation for specific purposes, or received from the sale of bonds, and those required for the payment of any bonds issued by the corporation and interest thereon, according to the terms of such bonds or of any mortgage or trust deed accompanying the same: (a) To pay the necessary incidental expenses of carrying on the business and activities of the corporation as herein authorized; (b) to pay the cost of operating, maintaining, repairing, extending, and improving the properties under the control of the corporation; (c) to pay interest and principal of any bonds heretofore issued by either of the cities or any board of park commissioners of either thereof to secure funds for the acquisition, establishment, construction or enlargement of any airport referred to in section 473.621, subdivision 2, payment of which has been assumed by it, or by the state of Minnesota; (d) if any further such excess moneys remain, to purchase upon the open market at or above or below the face or par value thereof any bonds issued by the corporation as herein authorized; any bonds so purchased to thereupon be canceled.

Subd. 14. State, federal aid, contracts. It may accept from the United States or the state of Minnesota, or any of their agencies, moneys or other assistance, whether by gift, loan, or otherwise, for the purpose of carrying out the purposes of sections 473.601 to 473.679, and

developing airports and other aeronautic facilities, and may enter into such contracts with the United States or the state of Minnesota, or any of their agencies as it may deem proper and consistent with the purposes of sections 473.601 to 473.679.

Subd. 15. Contracts to further aeronautics, for passengers. Without limitation upon any other powers in sections 473.601 to 473.679, it may contract with any person for the use by the person of any property and facilities under its control, for such purposes, and to an extent as will, in the opinion of the commissioners, further the interests of aeronautics in this state and particularly within the metropolitan area, including, but not limited to, the right to lease property or facilities, or any part thereof, for a term not to exceed 99 years, to any person, the national government, or any foreign government, or any department of either, or to the state or any municipality. The corporation shall not have the authority to lease, in its entirety, any municipal airport taken over by it under the provisions of sections 473.601 to 473.679. The commission may contract with any person for the use or lease in accordance with this subdivision of any property and facilities under its control for motel, hotel and garage purposes, and for other purposes as, in the opinion of the commissioners, are desirable to furnish goods, wares, services and accommodations to or for the passengers and other users of airports under the control of the corporation. Nothing in this subdivision shall be interpreted to permit the sale of intoxicating liquor upon the property or facilities except as authorized in chapter 340.

Subd. 16. Incident powers. It may generally carry on the business of acquiring, establishing, developing, extending, maintaining, operating, and managing airports, with all powers incident thereto except it is expressly prohibited from exercising these powers for the purpose of future construction of a major new airport.

Subd. 17. Ordinances. (1) It may adopt and enforce rules, regulations, and ordinances it deems necessary for the purposes of sections 473.601 to 473.679, including those relating to the internal operation of the corporation and to the management and operation of airports owned or operated by it, subject to sections 473.601 to 473.679. Any person violating any rule, regulation or ordinance is guilty of a misdemeanor.

(2) The prosecution may be before a county or municipal court having jurisdiction over the place where the violation occurs. Every sheriff, constable, police officers, and other peace officer shall arrest offenders. The fines collected shall be paid into the treasury of the corporation. The portion of the fines necessary to cover all costs and disbursements incurred in processing and prosecuting the violations in the court shall be transferred to the court administrator. All persons committed shall be received into any penal institution in the county in which the offense was committed. All persons shall take notice of the rules, regulations, and ordinances without pleading or proof.

(3) A public hearing need not be held on rules, regulations and ordinances relating to the internal operation of the commission or to the management or operation of airports owned or operated by it unless the rule, regulation or ordinance affects substantial rights.

(4) When necessary, the corporation may adopt and enforce without a public hearing all other rules, regulations or ordinances, but it shall hold a public hearing within 30 days after their adoption. Prior to the hearing, the corporation shall give at least 15 days notice by publication in appropriate legal newspapers of general circulation in the metropolitan area and mail a copy of them to all interested parties who have registered their names with the corporation for that purpose. If the rules, regulations, or ordinances are not deemed immediately necessary, the corporation shall hold a public hearing on them after giving the required notice. The rules, regulations, or ordinances shall not be adopted and enforced until after the hearing.

(5) Notice of the adoption of rules, regulations and ordinances shall, as soon as possible after adoption, be published in appropriate legal newspapers of general circulation in the metropolitan area. Proof of publication and a copy of the rule, regulation, or ordinance shall be filed with the secretary of state. They shall then be in full force and effect.

(6) Any person substantially interested or affected in rights as to person or property by a rule, regulation or ordinance adopted by the corporation, may petition the corporation for reconsideration, amendment, modification, or waiver of it. The petition shall set forth a clear statement of the facts and grounds upon which it is based. The corporation shall grant the petitioner a public hearing within 30 days after the filing of the petition.

Subd. 18. Hearings and the like. It shall have the power to conduct investigations, inquiries and hearings concerning matters covered by the provisions of sections 473.601 to 473.679 and orders, rules and regulations of the commission; and shall hold hearings as required by said sections 473.601 to 473.679. Notice of hearings to all interested parties shall be given as specified in said sections 473.601 to 473.679, in the instances specified, and otherwise in accordance with such rules as the commission may adopt. All hearings shall be open to the public, and shall be conducted by the commission itself or a committee or member thereof designated by the commission for such purposes. Where a hearing is conducted by a committee or a member of the commission, such committee or member shall make a full and complete report thereof, together with a transcript of all testimony and evidence taken at the hearing, to the commission and the commission shall proceed to a determination of the subject matter of said hearing and make its findings and conclusions and order with respect thereto. Any member of the commission conducting or participating in the conduct of any hearing shall have the power to administer oaths and affirmations, to issue subpoenas, and compel the attendance and testimony of witnesses, and the production of papers, books and documents. The commission, or its director, shall upon request of any party to a hearing issue subpoenas to compel the attendance and testimony of witnesses, and the production of papers, books and documents. In case of failure of any witness to comply with any served subpoena, the commission may invoke the aid of any court of this state of general jurisdiction. The court may order the witness to comply with the subpoena and any failure so to do may be punished by the court as a contempt thereof. The testimony and other evidence at any and all hearings shall be taken by a reporter employed by the commission, and any party in interest upon payment to said reporter of the going rates therefor shall be entitled to a transcript thereof. Witnesses shall receive the same fees and mileage as in court actions, and a witness before being required to respond to a subpoena shall be given fees and mileage for one day's attendance.

Subd. 19. Acoustical barriers. The corporation shall construct an acoustical barrier in or along the perimeter of maintenance areas of the Minneapolis–St. Paul International Airport. It also shall construct acoustical barriers along the perimeter of runways of such airport where it is reasonably necessary, practical and safe to do so according to the standards of the Federal Aviation Administration. All barriers shall conform to specifications approved by the pollution control agency. For purposes of this subdivision, an acoustical barrier is a wall, fence, natural barrier such as an earthen barrier or trees designed to abate noise. The corporation shall also confer and cooperate with any entity which it creates for the purpose of studying and implementing sound abatement programs and with representatives of persons residing in the vicinity of any airport who desire to explore means for relieving the area of the detrimental effects of aircraft noise.

Notwithstanding the provisions of any other law none of the construction authorized by this subdivision shall be subject to review or approval by the metropolitan council.

Subd. 20. [Repealed, 1996 c 310 s 1]

Subd. 21. Airport zoning boards. The corporation shall establish one joint airport zoning board for each airport operated under its authority in accordance with section 360.063, subdivision 3, clause (5). Notwithstanding the provisions of section 360.065, subdivision 1, mailed notice to property owners is not required for hearings concerning adoption of zoning regulations by a joint airport zoning board for Minneapolis–St. Paul International Airport.

Subd. 22. TDD phones. The commission shall provide, in public areas at the international airport, public pay telephones with telecommunications devices, commonly known as "TDD's," that permit a communication-impaired person to communicate with others by telephone. The commission shall provide one such telephone on each concourse of the main terminal, one in the main ticketing area of the main terminal, and one in the Humphrey Terminal. The commission shall place signs at strategic locations in and about the terminals indicating where the telephones are available.

Subd. 23. Parking privileges. Except as otherwise provided in this subdivision, the commission may not provide free parking at the Minneapolis–Saint Paul international airport terminal. The commission may provide free parking to employees and members of the commission who are at the terminal on official business. The commission may provide free

parking at the Minneapolis–Saint Paul international airport terminal for persons who are not employees or members of the commission if those persons are attending a meeting of the commission or performing volunteer work in the terminal. A card or pass issued to provide free parking must have an expiration date of no later than one year after the card or pass is issued. The commission shall require an expired card to be returned to the commission or shall account for it in another manner. The commission shall maintain a record of who receives free parking at the terminal, including the person's name, organization, date, the dollar value of the free parking provided, and the purpose for which the free parking was provided.

Subd. 24. Certain aircraft prohibited. After complying with the publication and public comment requirements of United States Code, title 49, section 47524(b), and other applicable federal requirements, the corporation shall prohibit operation at Minneapolis–St. Paul International Airport of aircraft not complying with stage 3 noise levels after December 31, 1999.

Subd. 25. Implementation of long-term plan. The corporation shall implement the Minneapolis–St. Paul International Airport year 2010 long-term comprehensive plan.

Subd. 26. Final environmental impact statement. The corporation shall not be required to provide environmental or technical analysis of the new airport alternative in the dual track planning process final environmental impact statement.

Subd. 27. Use of reliever airports. The corporation shall develop and implement a plan to divert the maximum feasible number of general aviation operations from Minneapolis–St. Paul International Airport to those airports designated by the federal aviation administration as reliever airports for Minneapolis–St. Paul International Airport.

Subd. 28. Prohibition of replacement passenger terminal. The corporation is prohibited from constructing a replacement passenger terminal on the west side of Minneapolis–St. Paul International Airport without legislative approval.

Subd. 29. Construction of a third parallel runway. (a) The corporation must enter into a contract with each affected city that provides the corporation may not construct a third parallel runway at the Minneapolis–St. Paul International Airport without the affected city's approval. The corporation must enter into the contracts by January 1, 1997.

(b) If a contract with a city as required by this subdivision is not executed by January 1, 1997, as a result of the corporation failing to act in good faith, the amount the corporation must spend for noise mitigation in the affected city is increased by 100 percent of the amount spent in the most recent year in which an expenditure was made for noise mitigation in the affected city.

(c) A contract entered into by a city and the corporation under this subdivision creates and the contract must provide third party beneficiary rights on behalf of the affected property owners in the affected cities. These third party beneficiary rights apply only if a state law changes, supersedes, or invalidates the contract or authorizes or enables the corporation to construct a third parallel runway notwithstanding the contract.

(d) An "affected city" is any city that would experience an increase in the area located within the 60 Ldn noise contour as a result of operations using the third parallel runway.

History: 1975 c 13 s 100; 1976 c 265 s 1; 1977 c 417 s 5–7; 1979 c 302 s 4; 1980 c 450 s 2; 1981 c 27 s 2; 1983 c 330 s 2; 1983 c 359 s 67; 1986 c 444; 1Sp1986 c 3 art 1 s 82; 1989 c 111 s 2; 1991 c 350 art 1 s 23; 1996 c 378 s 1; 1996 c 464 art 3 s 2–10; 1996 c 471 art 7 s 19

473.609 INTERMEDIATE AIRPORTS; ACQUISITION, CONSTRUCTION, IMPROVEMENT.

In any case where the acquisition, construction, improvement, and operation of an airport by a corporation created pursuant to sections 473.601 to 473.679, shall have resulted in conflict with or damage to airport property in existence and in operation at the time of such acquisition and construction, the owner of such airport property may petition the corporation for relief, and upon the filing of such a petition and within 60 days thereof, the corporation shall exercise its power of eminent domain to extinguish such airport operation and take by condemnation the buildings, aeronautical improvements, and otherwise compensate the owner for the cost of the aeronautical improvements made to the land area and for the cost of

restoring the land to its original uses, and shall pay therefor out of funds provided pursuant to section 473.665.

History: 1975 c 13 s 101

473.611 PLANS TO BE CONSISTENT WITH DEVELOPMENT GUIDE.

Subdivision 1. [Repealed, 1977 c 417 s 14]

Subd. 2. [Repealed, 1977 c 417 s 14]

Subd. 3. [Repealed, 1977 c 417 s 14]

Subd. 4. [Repealed, 1977 c 417 s 14]

Subd. 5. **New or existing airports.** Any long-term comprehensive plans adopted by the commission for the betterment and enlargement of existing airports, for the acquisition and construction of new airports, and for the categories of use of airports owned or controlled by the commission shall be consistent with the development guide of the metropolitan council.

History: 1975 c 13 s 102; 1977 c 417 s 8; 1984 c 561 s 1

473.612 MS 1988 [Expired]

473.614 ENVIRONMENTAL REVIEW.

Subdivision 1. **Capital plan; environmental assessments.** The commission shall prepare an assessment of the environmental effects of projects in the commission's seven-year capital improvement program and plan at each airport owned and operated by the commission. The assessment must examine the cumulative environmental effects at each airport of the projects at that airport, considered collectively. The commission need not prepare an assessment for an airport when the capital improvement program and plan for that airport has not changed from the one adopted the previous year or when the changes in the program and plan will have only trivial environmental effects.

Subd. 2. **Capital program; environmental assessment worksheets.** (a) The commission shall prepare environmental assessment worksheets under chapter 116D, and rules issued pursuant thereto, on the environmental effects of projects in the commission's capital improvement program at each airport owned and operated by the commission. The scope of the environmental assessment worksheets required by this section is limited to only those projects in the program for an airport that meet all of the following conditions:

(1) The project is scheduled in the program for the succeeding calendar period.

(2) The project is scheduled in the program for the expenditure of \$5,000,000 or more at Minneapolis-St. Paul International Airport or \$2,000,000 or more at any other airport.

(3) The project involves: (i) the construction of a new or expanded structure for handling passengers, cargo, vehicles, or aircraft; or (ii) the construction of a new or the extension of an existing runway or taxiway.

After adopting its capital program, the commission may amend the program by adding or changing a project without amending or redoing the worksheets required by this subdivision, if the project to be added or the change to be made is one that the commission could not reasonably have foreseen at the time that it completed the worksheets.

(b) For the purpose of determining the need for an environmental impact statement, the commission shall consider the projects included in the scope of a worksheet as a single project and shall assess their environmental effects collectively and cumulatively. The commission's decision on whether an environmental impact statement is needed must be based on the worksheet and comments. The commission may not base a decision that an environmental impact statement is not needed on exemptions of projects in state or federal rules. The commission is not required to prepare an environmental impact statement on an individual project, or to include a project in the scope of an environmental impact statement that the commission determines is needed, if the project is shown in the worksheet to have trivial environmental effects or if an environmental impact statement on the project has been determined to be adequate under state law.

(c) The commission may incorporate into worksheets information from the commission's long-range plans, environmental assessments prepared under subdivision 1, or other environmental documents prepared on projects under state or federal law.

Subd. 2a. **Environmental impact report.** Notwithstanding the provisions of subdivision 2, the commission shall prepare a report documenting the environmental effects of projects included in the MSP 2010 long-term comprehensive plan. Environmental effects of and costs associated with, noise impacts, noise mitigation measures, and land use compatibility measures must be evaluated according to alternative assumptions of 600,000, 650,000, 700,000, and 750,000 aircraft operations at Minneapolis–St. Paul International Airport.

Subd. 3. **Procedure.** (a) The environmental assessments required under subdivision 1 and the environmental assessment worksheets required under subdivision 2 must be prepared each year before the commission adopts its capital improvement plan and program.

(b) The commission shall hold a public hearing on each environmental assessment and worksheet before adopting the capital improvement plan and program. The commission may consolidate hearings.

(c) The initial environmental assessments and worksheets must be completed before the commission adopts its capital improvement plan and program for calendar years 1989 to 1995, but the initial assessments and worksheets must extend to and incorporate projects under construction in calendar year 1988. A project that is under construction in 1988 may proceed, but the project must be included in the environmental review required by this section as if the project were scheduled for the succeeding calendar year. The commission is not required to prepare an environmental impact statement on an individual project, or to include a project in the scope of an environmental impact statement that the commission determines is needed, if: (1) the project is under construction in 1988, or (2) on April 27, 1988, the project is included in the commission's capital program for 1988 and 1989 and an environmental review is under way on the project individually under state or federal law.

Subd. 4. **Other environmental review.** Nothing in this section limits the responsibility of the commission or any other governmental unit or agency, under any other law or regulation, to conduct environmental review of any project, decision, or recommendation, except that the environmental assessment worksheets prepared under subdivision 2 satisfy the requirements under state law or rule for environmental assessment worksheets on individual projects covered by the worksheets prepared under subdivision 2.

History: 1988 c 664 s 2; 1996 c 464 art 3 s 11

473.616 COMPREHENSIVE AIRPORT PLANNING.

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

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

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

(b) Until January 1, 1996, or until the commission has completed the activities required by subdivision 3 and section 473.618, whichever occurs first, the commission may construct

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

Subd. 2. New airport; conceptual design study and plan. By March 1, 1990, the commission, in consultation with the council, shall complete a study of facilities requirements, airport functioning, and conceptual design for a major new airport. By January 1, 1991, the commission shall complete a conceptual design plan for a major new airport. The conceptual design study and plan must describe and satisfy air transportation needs for a prospective 30-year period and be consistent with the development guide of the council. The conceptual design plan must include an analysis of estimated costs, potential financing methods and sources of public and private funding, and cost allocation issues and options. The council shall use the design study and plan in evaluating areas for locating a new airport under section 473.155, subdivision 3.

Subd. 3. New airport; site selection; comprehensive plan. Within four years following the council's designation of a search area under section 473.155, the commission shall: (1) select a site for a major new airport in the search area designated by the council; (2) prepare a comprehensive plan and schedule, including financial plans, for the development of a major airport at that site for a prospective 20-year period following a decision to develop a new airport; (3) prepare an estimate of facilities requirements and a concept plan for development of the airport for an additional ten years; and (4) prepare and submit for administrative review the environmental documents that are required for site acquisition.

Subd. 4. Legislative reports. (a) Until the activities required by subdivision 3 and section 473.618 are completed, the commission shall report to the legislature by February 15 of each year on the results of the airport planning activities of the commission under this section. The report must include a summary of expenditures and sources of funding for the activities.

(b) By March 1, 1990, after consulting with the council, the federal aviation administration, industry representatives, and other persons, the commission shall report to the legislature on the assumptions and methods that the commission will use in preparing forecasts for airport development and operations purposes and for determining capacity and facility needs.

(c) By March 1, 1990, the commission shall report to the legislature on the integration of major airport facilities in the metropolitan area with state, national, and international air transportation systems and on the commission's planning assumptions and parameters related to such airport development issues as capacity, safety, environmental impact, and air service.

(d) By March 1, 1990, the commission shall report to the legislature on the conceptual design study for a major new airport, prepared under subdivision 2. By January 1, 1991, the commission shall report to the legislature on the conceptual design plan prepared under subdivision 2.

History: 1989 c 279 s 3; 1991 c 21 s 1

473.618 AIRPORT PLANNING AND DEVELOPMENT REPORT.

Within 180 days after the completion of the actions required by section 473.616, subdivision 3, the metropolitan council and the airports commission shall report to the legislature on the long-range planning and development of major airport facilities in the metropolitan area. The report must include the recommendations of the agencies on major airport development in the metropolitan area for a prospective 30-year period and on acquiring a site for a major new airport. The report must include an analysis of the effect of a new airport on pres-

ent and proposed facilities at the existing airport and on the local, regional, and state economies. The report must contain the recommendations of the agencies on financial planning and financing for a major new airport, including: cost; cost allocation; amortization of major improvements at the existing airport before a transfer of operations; financing methods and sources of public and private funds; lease agreements and user charges at a new airport; and a method of capturing for public uses a portion of the revenue from development around a new airport.

History: 1989 c 279 s 4

473.619 PLANNING ADMINISTRATION.

Subdivision 1. Interagency agreement. The metropolitan council and the airports commission shall enter into an intergovernmental agreement by July 1, 1989. The agreement must establish a process and agency responsibilities for comprehensive and coordinated planning for major airport development, consistent with the requirements of this section and sections 473.155, 473.616, and 473.618. The agreement must establish a joint committee composed of board members of the two agencies to oversee implementation of the agreement.

Subd. 2. Scope of work report. By September 1, 1989, the metropolitan council and the airports commission shall prepare a scope of work report that describes the general scope and schedule of work and the topics to be addressed in the planning and study tasks required of the agencies under sections 473.155, 473.616, and 473.618.

Subd. 3. Federal participation. The metropolitan council and the airports commission shall make use of available federal funding for their activities under sections 473.155, 473.616, and 473.618.

Subd. 4. Consultation. The metropolitan council and the airports commission shall prepare the plans and reports under sections 473.155, 473.616, and 473.618, in consultation with each other, the commissioner of transportation, the federal aviation administration, industry representatives, and other interested persons.

Subd. 5. Commencement. In order to meet the planning deadlines prescribed in sections 473.155, 473.616, and 473.618, the agencies may begin preparing plans and studies immediately, without waiting for the completion of the interagency agreement or the completion and review of the scope of work report.

History: 1989 c 279 s 5

473.621 POWERS OF CORPORATION.

Subdivision 1. [Repealed, 1977 c 417 s 14]

Subd. 1a. Relationship to legislature. The commission shall be held accountable to the legislature in its activities, plans, policies, and programs. It shall report each session to appropriate committees of the legislature as to its activities, plans, policies, and programs and shall make other reports and recommendations which the legislature or its committees deem appropriate.

Subd. 1b. Annual report to legislature. The corporation shall report to the legislature by February 15 of each year concerning operations at Minneapolis–St. Paul International Airport. The report must include the number of aircraft operations and passenger enplanements at the airport in the preceding year, current airport capacity in terms of operations and passenger enplanements, average length of delay statistics, and technological developments affecting aviation and their effect on operations and capacity at the airport. The report must include information in all the foregoing categories as it relates to operations at Wayne County Metropolitan Airport in Detroit. The report must compare the number of passenger enplanements and the number of aircraft operations with the 1993 metropolitan airport commission baseline forecasts of total passengers and total aircraft operations.

Subd. 2. Control of city airports. The corporation shall have the use, management, operation, regulation, policing, and control of any or all airports owned by either the city of Minneapolis or St. Paul, whether the airport or title thereto is held in the name of the city, the council, a board of park commissioners, or any other body. Consent by each city, the council,

the board of park commissioners, and any other agency, board, or department thereof to the use, management, operation, regulation, policing, and control is conclusively presumed to have been given by the appointment of commissioners pursuant to the provisions of Laws 1943, chapter 500. Authority is granted to the mayor and council of each city and any board or commission having jurisdiction of airports in either city to give consent in that manner. The corporation may exercise all the powers granted to it with reference to any airport property over which it has jurisdiction pursuant to this subdivision, except the right of leasing or disposing of the fee title to the lands included therein, without the payment of any rental. The title to the fee of the land shall remain in the city, or agency, board, or department of the city. The action to be taken pursuant to this subdivision is declared to be necessary in order to provide an integrated airports system and enable the corporation to carry out the public and governmental purposes of Laws 1943, chapter 500. The corporation shall not close any existing airport in either city to air freight commerce consigned to or originating in the city unless and until it provides for the city freight airport facilities which are, in the judgment of the corporation and except as they may be restricted by government use, substantially equal to the existing freight airport facilities in safety and convenience to businesses and industries of the city. For the purpose of this subdivision, "airport" shall include only the lands, buildings, and equipment acquired for use primarily for any airport over which the corporation has jurisdiction pursuant to this subdivision.

Subd. 3. Payment of city bonds. The authority in subdivision 2, granted to the corporation is not conditioned upon the receipt of any appropriation provided for in Laws 1943, chapter 500. Each city involved, or any board or commission of such city, shall pay the balance due on its bonds which have prior to the enactment of Laws 1943, chapter 500, been issued pursuant to law or charter to secure funds for the acquisition, establishment, construction, enlargement or improvement of the airports to be taken over as provided in subdivision 2, according to the terms of such bonds. The corporation created by Laws 1943, chapter 500, may, if it shall so determine, assume the payment of part or all of the balance due on such bonds at the time of its taking over the use, management, operation, regulation, policing and control of such airports.

Subd. 4. Additional major airport. The corporation may provide, in addition to airports existing at the time of the passage of Laws 1943, chapter 500, at least one major or primary metropolitan airport which shall be as nearly equidistant from the city halls of both cities as possible. All other new airports to be constructed shall be so located that the airport system of the corporation as a whole shall be of substantially equal convenience to both cities. It shall put all airports and other facilities to their maximum use for passenger, mail, express, freight, and other air transportation operations as the needs therefor develop, and shall encourage the establishment of related aircraft industries.

Subd. 5. City cost calculation; land reversion. The investment of the cities of Minneapolis and St. Paul in the metropolitan airports system, from the date of the original enactment of this section to January 1, 1973, includes the land comprising airports owned by them and taken over pursuant to subdivision 2, and taxes levied on property within the cities in the years 1944 to 1969, the proceeds of which, together with revenues of the system and federal funds, were expended for the operation, administration, maintenance, improvement, and extension of the system and the service of debt incurred for such improvement and extension, including improvement of the city lands. The aggregate amount of such taxes was \$19,816,873, of which \$7,294,022 would have been assessed and extended against property outside the cities if the entire metropolitan area, which will be taxable by the corporation in 1974 and subsequent years under section 473.661, had been within its taxing jurisdiction when those levies were made. If it should become necessary for the corporation to levy any such taxes for any purpose other than the payment of bonds and interest, they shall be extended and assessed exclusively against taxable property outside the cities until the total amount so assessed and extended equals \$7,294,022. In the event that the airport land owned by either city should no longer be used for airport purposes, the corporation's control thereof shall cease, and title to the land and all improvements shall be and remain in the city, but the city shall become liable to the corporation for the repayment, without interest, of an amount of the taxes so paid which is proportionate to its own share of the cities' original investment, being 60 percent for Minneapolis and 40 percent for St. Paul. In the event that any other land

or improvements owned or controlled by the corporation should ever cease to be used for airport purposes, all income therefrom and all proceeds received upon disposal thereof shall continue to be used for purposes of the metropolitan airports system, subject to federal laws and regulations governing such disposal; or if the operation of the system should ever be terminated, all such income and proceeds shall be distributed to the seven counties in the metropolitan area, in amounts proportionate to the net tax capacity of taxable property in each county at the time of such distribution.

Subd. 6. Capital projects; review. All Minneapolis–St. Paul International Airport capital projects of the commission requiring the expenditure of more than \$5,000,000 shall be submitted to the metropolitan council for review. All other capital projects of the commission requiring the expenditure of more than \$2,000,000 shall be submitted to the metropolitan council for review. No such project which has a significant effect on the orderly and economic development of the metropolitan area may be commenced without the approval of the metropolitan council.

Subd. 7. Capital projects. For purposes of this section, capital projects having a significant effect on the orderly and economic development of the metropolitan area shall be deemed to be the following:

- (a) the location of a new airport,
- (b) a new runway at an existing airport,
- (c) a runway extension at an existing airport,
- (d) runway strengthening other than routine maintenance to determine compliance with federal air regulation part 36,
- (e) construction or expansion of passenger handling or parking facilities which would permit a 25 percent or greater increase in passenger enplanement levels,
- (f) land acquisition associated with any of the above items or which would cause relocation of residential or business activities.

History: 1975 c 13 s 103; 1977 c 417 s 9–11; 1984 c 561 s 2–4; 1987 c 223 s 3; 1988 c 719 art 5 s 84; 1989 c 279 s 6; 1989 c 329 art 13 s 20; 1996 c 464 art 3 s 12

473.622 EXISTING AIRPORTS; CONTROL, JURISDICTION.

The corporation shall exercise control and jurisdiction over any other airport within either 35 miles of the city hall of either city or within the metropolitan area. Control and jurisdiction of the corporation over any privately or publicly owned airport shall be limited to control and jurisdiction of the flight and traffic patterns of such airport in the interests of safety of the operation of any airport owned or operated by the corporation. No airport shall be acquired or operated within the metropolitan area without first securing the approval of the corporation, provided, however, such approval shall not be withheld except after notice to all interested parties and a public hearing held thereon, as provided in section 360.018, subdivision 7, and then only upon a finding by the corporation that the acquisition or operation of such airport would create a flight hazard to any airport or airports owned or operated by it. As to any airport once licensed with the approval of the corporation, approval of the continued operation of such airport shall at no time be withdrawn by the corporation except after notice to all interested parties, a public hearing had, and a finding by the corporation based on substantial evidence that the operation of such airport is inconsistent with the safety of flight to and from an airport owned or operated or presently to be or being constructed to be operated by the corporation, and then only after payment of just compensation to cover the loss sustained by reason of such withdrawal, such just compensation, if not arrived at by agreement, to be ascertained in the condemnation of said airport by the corporation under the power of eminent domain, the commission to institute the condemnation proceedings promptly and to pay in connection with the prosecution thereof all reasonable and necessary expenses incurred not only by it but also by the owner of such airport.

History: 1975 c 13 s 104

473.625 DETACHING MAJOR AIRPORT LAND FROM CITY, SCHOOL DISTRICT.

(a) Lands constituting any major airport or a part thereof now and which may hereafter be operated by any public corporation organized under sections 473.601 to 473.679, and em-

braced within any city or school district organized under the laws of the state, are hereby detached from such city or school district.

(b)(i) Except as provided in clause (ii), real and personal property, including real and personal property otherwise taxable under section 272.01, constituting all or part of an intermediate airport operated by a public corporation organized under sections 473.601 to 473.679 and embraced within a home rule charter or statutory city or school district is exempt from taxation by the city or school district.

(ii) The county assessor of the county where the property under this paragraph is located shall determine the total market value for all property at that site for assessment year 2001, compare it to the market value of the property existing on that site for the 1996 assessment, and report those market values to the commission. If the total market value has not increased by at least 20 percent, the property tax exemption under clause (i) shall expire and the property shall be taxable beginning in assessment year 2001 and thereafter, for taxes payable in 2002 and thereafter. The provisions of section 473.629 apply to lands exempted from property tax under this paragraph.

(c) For the purposes of this section, an intermediate airport is an airport that as of March 14, 1996, is a primary reliever airport, provides general aviation services, has a primary runway between 5,001 and 8,000 feet in length, and has precision instrument capability.

History: 1975 c 13 s 105; 1996 c 471 art 3 s 43

473.626 VALUE AND ASSESSMENT OF TAXABLE DETACHED PROPERTY.

The county assessor of the county in which the property is situated shall value and assess the taxable property in said area and shall report the same to the county auditor of the county in which such property is situated on or before October 1 of each year.

History: 1975 c 13 s 106; 1Sp1981 c 1 art 8 s 18

473.627 TAX FOR POLICE, FIRE, STREETS, PARKING.

The said commission shall on or before October 10 of each calendar year certify to the county auditor of said county, the amount determined by the commission to be raised on taxable properties within such territory to provide funds for policing and fire protection at and within said airport, and for the construction, maintenance and repair of streets and motor vehicle parking areas within such airport and the auditor shall extend, spread and include the same with and as a part of the general taxes for state and county purposes, to be collected and enforced therewith, together with penalties and interest and costs, and the county treasurer upon collection of the same, shall transfer the same to the treasurer of said public corporation.

History: 1975 c 13 s 107

473.629 VALUE OF PROPERTY FOR BOND ISSUES BY SCHOOL DISTRICTS.

As to any lands to be detached from any school district under the provisions hereof, notwithstanding such prospective detachment, the value of such lands and the net tax capacity of taxable properties now located therein or thereon shall be and constitute from and after the date of the enactment hereof a part of the value of properties upon the basis of which such school district may issue its bonds, the value of such lands for such purpose to be 33-1/3 percent of the market value thereof as determined and certified by said assessor to said school district, and it shall be the duty of such assessor annually on or before the tenth day of October from and after the passage hereof, to so determine and certify; provided, however, that the value of such detached lands and such taxable properties shall never exceed 20 percent of the value of all properties constituting and making up the basis aforesaid.

History: 1975 c 13 s 108; 1975 c 339 s 8; 1988 c 719 art 5 s 84; 1989 c 329 art 13 s 20

473.631 BOUNDARIES OF MAJOR AIRPORT.

The western boundary of any major airport located within Hennepin county shall not be extended by said corporation into the city of Richfield beyond Cedar Avenue as laid out as of the date of enactment of Laws 1953, Chapter 715; provided that nothing herein shall be or

constitute a limitation upon the power of such corporation, now or hereafter given, to zone said airport and lands adjacent thereto by the enactment of an ordinance or otherwise.

History: 1975 c 13 s 109

473.633 [Repealed, 1977 c 447 art 6 s 13]

473.635 [Repealed, 1977 c 447 art 6 s 13]

473.636 [Repealed, 1996 c 464 art 3 s 16]

473.637 [Repealed, 1996 c 464 art 3 s 16]

473.638 CONTROL MEASURE INVOLVING TAKING; CONDEMNATION BY MAC.

Subdivision 1. **Eminent domain.** If either the provisions or the application of section 473.636, subdivision 2, or any land use and development control measure applicable to public or private property in an airport development area is determined by a court of competent jurisdiction to constitute a taking, the metropolitan airports commission in the exercise of its power to acquire lands for the airport has the power to acquire the property or any similar property, or an interest in it, to the extent needed for the application of the measure, by eminent domain exercised in accordance with chapter 117. The right of eminent domain must be exercised if the commission has, or will have funds to pay the condemnation award and the council determines that it is necessary to protect the airport from encroachment or hazards, to protect residents in the area, to encourage the most appropriate use of property in the airport development area, or to protect and conserve the natural resources of the metropolitan area.

Subd. 2. **Retention or sale of property.** The commission may retain any property now owned by it or acquired under subdivision 1 and use it for a lawful purpose, or it may provide for the sale or other disposition of the property in accordance with a redevelopment plan in the same manner and upon the same terms as the housing and redevelopment authority and governing body of a municipality under the provisions of section 469.029, all subject to the provisions of section 473.636, subdivision 2, or to existing land use and development control measures approved by the council.

Subd. 3. **Sharing of costs.** The metropolitan airports commission and any other government unit in the metropolitan area may enter into an agreement under which the cost of acquiring a property and the proceeds from the sale or other disposition of it under subdivision 2 are to be shared by the commission and such government unit. The commission, the metropolitan council, or any government unit may also enter into any agreements with the United States or the state of Minnesota, or any agency or subdivision of either, and do all acts and things required by state or federal law or rules as a condition or consideration for the loan or grant of funds or property for the purpose of land acquisition or improvement under subdivisions 1 and 2.

History: 1986 c 460 s 49; 1Sp1986 c 3 art 2 s 5; 1987 c 291 s 231

473.639 RELATION TO AIRPORT HAZARD ZONING.

Sections 473.636 and 473.637 and any criteria, guidelines, or land use and development control measure approved by the council under those sections in no way supersede or limit the powers conferred on a municipality to do airport hazard zoning, or the commissioner of transportation by sections 360.061 to 360.073. Any criteria, guidelines, or land use and development control measure approved by the council under section 473.636 or 473.637 must be consistent with any exercise of powers by the commissioner under sections 360.061 to 360.073.

History: 1986 c 460 s 50; 1Sp1986 c 3 art 2 s 6; 1996 c 305 art 1 s 107

473.64 GOVERNMENTS IN AIRPORT DEVELOPMENT AREA; TAX SHARING.

The governing bodies of government units located wholly or partly in an airport development area shall jointly study and decide upon a plan for the sharing of property tax revenues derived from property located in an airport development area. If 80 percent of the gov-

ernment units having territory within the airport development area agree upon a plan, the plan is effective, and all government units shall enter into whatever agreements may be necessary for this purpose. The plan, however, may not impair the existing contract obligations of any government unit. This section does not apply to the metropolitan airports commission or the council.

History: 1986 c 460 s 51

473.641 NEW AIRPORT; PUBLIC HEARING.

Subdivision 1. Considerations. In determining whether a new airport shall be acquired or established or an existing airport expanded by the acquisition of an annexation thereto of additional lands, the corporation shall, before taking any action thereon, hold a public hearing in accordance with the procedure set forth in this act; and in reaching such determination, the corporation shall take into consideration the objectives of the act as set forth in section 473.602; and shall take into consideration the use or uses to be made of the new airport or the use or uses to be made of the lands to be acquired and annexed to an existing airport, and shall take into consideration the effect the acquisition or establishment of the new airport will have upon the residents and properties in the area surrounding such new airport, or, in the case of the acquisition and annexation of lands to an existing airport, the effect such acquisition and annexation will have on residents and properties in the area surrounding such lands; and with respect to the new airport to be acquired or established, the commission shall take into consideration, in addition to the foregoing, the adequacy of present airport facilities in the area over which the corporation has jurisdiction, the nature of the terrain at the site thereof and in the vicinity of such site, whether there are safe areas available for expansion purposes, and whether the adjoining area is free from obstructions based on a proper glide ratio; and to aid the commission in giving consideration to such objectives and factors, and in reaching such determination, evidence may be offered and shall be received as to such objectives and factors at the public hearing herein provided for.

Subd. 2. No hearings required. Except as provided in subdivision 1, public hearings are not required for alterations, improvements or developments, whether or not contracted for, of any airport under the jurisdiction of the corporation, including but not limited to the addition of structures and facilities for use of or lease to others by the corporation.

Subd. 3. Land for new airport. The metropolitan airports commission shall not initiate land acquisition for a new major airport without explicit authorization from the legislature.

Subd. 4. Expansion or upgrade of metro airport. Notwithstanding any other law, the metropolitan airports commission shall not use revenue from any source, as described by section 473.608, for construction of air facilities to expand or upgrade the use of an existing metropolitan airport from minor use to intermediate use status as defined by the metropolitan development guide, aviation chapter, adopted pursuant to section 473.145.

History: 1975 c 13 s 112; 1977 c 417 s 12; 1980 c 614 s 154

473.651 RENTALS FIXED.

The corporation shall have the authority to determine the charges for the use of any of the property under its management and control, and the terms and conditions under which such property may be used. Where there is reasonable basis for classification of users as to any use, the corporation may classify users, but charges as to each class shall be reasonable and uniform for such use, and established with due regard to the value of the property and improvements used and the expense of operation to the corporation. The corporation shall have and may enforce liens as provided for in sections 514.18 to 514.22, to enforce the payment of any such charges.

History: 1975 c 13 s 113

473.652 CONSTRUCTION WORK.

Subdivision 1. Section 471.345 applies. The provisions of section 471.345, subject to the provisions of subdivision 2, shall apply to all construction work and every purchase of equipment, supplies, or materials necessary in carrying out the provisions of sections 473.601 to 473.679.

Subd. 2. Emergency. If the executive director of the corporation with the written concurrence of the chair or vice-chair declares that an emergency exists requiring immediate purchase of material or supplies or the making of emergency repairs at a cost of no more than \$5,000, or if two-thirds of the members of the corporation declare that an emergency exists requiring immediate purchase of materials or supplies or the making of emergency repairs at a cost in excess of \$5,000, the corporation shall not be required to advertise for bids. The materials or supplies may be purchased in the open market at the lowest price obtainable, or the emergency repairs may be contracted for or performed without securing formal competitive bids.

History: 1975 c 13 s 114; 1977 c 417 s 13; 1986 c 444

473.653 RESTRICTIONS ON CERTAIN AIRPORTS.

The metropolitan airports commission shall not take any action with respect to an airport owned by it that would result in a permanent net reduction in usable runway length at the airport. Retention of existing usable runway length at an airport owned by the metropolitan airports commission shall not cause the airport to be reclassified from a minor use to an intermediate use airport.

History: 1983 c 301 s 232

473.655 PUBLIC AND GOVERNMENTAL PURPOSES.

It is hereby determined and declared that the purposes of sections 473.601 to 473.679 are public and governmental; that the development of the metropolitan airports system by the corporation be consistent with the airport chapter of the metropolitan council's development guide and promote the public safety and welfare of the state; and that the development, extension, maintenance, and operation of the system in such a manner as to assure the residents of the metropolitan area of the minimum environmental impact from air navigation and transportation, with provision for noise abatement, control of airport area land use, and other protective measures, is essential to the development of air navigation and transportation in and through this state, and is necessary in order to assure the inclusion of this state in national and international systems of air transportation, benefits the people of the state as a whole, renders a general public service, and provides employment, and is of great public economic benefit.

History: 1975 c 13 s 115

473.661 BUDGET SPECIFYING AMOUNTS FOR SEPARATE ITEMS.

Subdivision 1. By July 1. The commissioners shall, on or before the first day of July of each year, prepare a detailed budget of the needs of the corporation for the next fiscal year, specifying separately in said budget the amounts to be expended for acquisition of property, construction, payments on bonded indebtedness, if any, operation, noise mitigation, and maintenance, respectively, subject only to such changes as the commissioners may from time to time approve.

Subd. 2. September 15 to county auditors. The commissioners shall on or before September 15 of each calendar year, certify to the county auditor of each county in the metropolitan area the total amount to be raised by the commissioners during the next calendar year through taxation, and each county auditor shall extend and assess against all property in the auditor's county which is then taxable by the corporation for the purpose for which the levy is made under the provisions of section 473.621, subdivision 5, that sum which bears the same proportion to the total amount as the net tax capacity of such taxable property bears to the net tax capacity of all property in the metropolitan area which is then taxable by the corporation for the purpose for which the levy is made. The county auditor shall extend, spread, and include the same with and as a part of the general taxes for state, county, and municipal purposes, to be collected and enforced therewith, together with penalties and interest and costs, and the county treasurer, upon collection of the same, shall transfer the same to the treasurer of the corporation.

Subd. 3. Levy limit. In any budget certified by the commissioners under this section, the amount included for operation and maintenance shall not exceed an amount which, when

extended against the property taxable therefor under section 473.621, subdivision 5, will require a levy at a rate of 0.00806 percent of market value. Taxes levied by the corporation shall not affect the amount or rate of taxes which may be levied by any other local government unit within the metropolitan area under the provisions of any charter.

Subd. 4. Noise mitigation. (a) According to the schedule in paragraph (b), commission funds must be dedicated (1) to supplement the implementation of corrective land use management measures approved by the Federal Aviation Administration as part of the commission's Federal Aviation Regulations, part 150 noise compatibility program, and (2) for soundproofing and accompanying air conditioning of residences, schools, and other public buildings when there is a demonstrated need because of aircraft noise, regardless of the location of the building to be soundproofed.

(b) The noise mitigation program described in paragraph (a) shall be funded by the commission from whatever source of funds according to the following schedule:

In 1993, an amount equal to 20 percent of the passenger facilities charges revenue amount budgeted by the commission for 1993;

In 1994, an amount equal to 20 percent of the passenger facilities charges revenue amount budgeted by the commission for 1994;

In 1995, an amount equal to 35 percent of the passenger facilities charges revenue amount budgeted by the commission for 1995; and

In 1996 and 1997, an amount equal to 40 percent of the passenger facilities charges revenue amount budgeted by the commission for 1996.

(c) From 1996 to 2002, the commission shall spend no less than \$185,000,000 from any source of funds for insulation and accompanying air conditioning of residences, schools, and other publicly owned buildings where there is a demonstrated need because of aircraft noise; and property acquisition, limited to residences, schools, and other publicly owned buildings, within the noise impacted area. In addition, the corporation shall insulate and air condition four schools in Minneapolis and two schools in Richfield that are located in the 1996 60 Ldn contour.

(d) Before the commission constructs a new runway at Minneapolis–St. Paul International Airport, the commission shall determine the probable levels of noise that will result in various parts of the metropolitan area from the operation of aircraft on the new runway and shall develop a program to mitigate noise in those parts of the metropolitan area that are located outside the 1996 65 Ldn contour but will be located within the 65 Ldn contour as established after the new runway is in operation. Based upon this determination, the commission shall reserve in its annual budget, until noise mitigation measures are completed, an amount of money necessary to implement this noise mitigation program in the newly impacted areas.

(e) The commission's capital improvement projects, program, and plan must reflect the requirements of this section. As part of the commission's report to the legislature under section 473.621, subdivision 1a, the commission must provide a description and the status of each noise mitigation project implemented under this section.

(f) Within 180 days of submitting the commission's and the metropolitan council's report and recommendations on major airport planning to the legislature as required by section 473.618, the commission, with the assistance of its sound abatement advisory committee, shall make a recommendation to the state advisory council on metropolitan airport planning regarding proposed mitigation activities and appropriate funding levels for mitigation activities at Minneapolis–St. Paul International Airport and in the neighboring communities. The recommendation shall examine mitigation measures to the 60 Ldn level. The state advisory council on metropolitan airport planning shall review the recommendation and comment to the legislature within 60 days after the recommendation is submitted to the council.

History: 1975 c 13 s 116; 1986 c 444; 1988 c 719 art 5 s 84; 1989 c 277 art 4 s 74; 1989 c 329 art 15 s 20; 1992 c 551 s 1,2; 1994 c 416 art 1 s 55; 1996 c 320 s 1; 1996 c 464 art 3 s 13

473.662 EARNINGS, HOW APPLIED.

The earnings of the corporation shall be applied as follows: (a) to the payment of interest on its bonds and of any principal of such bonds which is due and payable; (b) to the establish-

ment of a sufficient fund to pay interest and principal on its bonds which will be payable in the following fiscal year; and (c) to the other purposes set out in section 473.608, subdivision 13. If the amount included in the budget for any year, including the sum necessary to make payment of interest on and principal of bonds in the ensuing fiscal year is not sufficient to meet the needs of the corporation for that year, any deficit shall be included in the budget of the corporation for the following year.

History: 1975 c 13 s 117

473.665 BONDS, ISSUANCE.

Subdivision 1. **Up to \$125,000,000.** In anticipation of the receipt by the corporation of payments by cities herein provided for, appropriations, rents, and profits, and of income from any other source, and for the purpose of securing funds as needed for the payment of the cost of property acquired, airports constructed and purchased, and other purposes herein authorized, the corporation is hereby authorized to issue its bonds in an aggregate principal amount not exceeding \$125,000,000, bearing interest at a rate not to exceed five percent per annum, payable semiannually. Notwithstanding any provision to the contrary included within the charter of either city or any general or special law of the state of Minnesota they may be issued and sold without a vote upon said question by electors of either city.

Subd. 2. **Terms.** Such bonds shall be of such date, denominations, place of payment, form, and details as may be determined by such corporation, not inconsistent with the provisions of sections 473.601 to 473.679. They shall mature serially, the first installment to fall due in not more than three years and the last in not more than 30 years from their date, and no annual maturing installment shall exceed by five times the amount of the smallest annual maturing installment; provided, that the amount of such installments of principal may be such that the increase thereof from year to year shall approximately equal the decrease from year to year in the interest of the bonds remaining unpaid. Any bond may reserve the right of its redemption and prepayment at a date or dates fixed therein at par and accrued interest or at such premium and upon such notice as shall be determined by the corporation prior to the issuance of the bond.

Subd. 3. **Formalities.** The bonds shall be signed by the chair, attested by the secretary and countersigned by the treasurer, of the corporation. The interest coupons to be thereto attached shall be executed and authenticated by the printed, engraved or lithographed facsimile signatures of the chair and secretary. The signatures of at least one of the officers signing the bonds shall be manual but those of the others may be printed, engraved or lithographed facsimiles. The validity of bonds or coupons so executed shall remain unimpaired by the fact that one or more of such officers shall have ceased to be in office before their delivery to the purchaser or shall not have been in office on the formal date of the bonds. Section 475.60, in so far as applicable, shall apply to the negotiation and sale of the bonds. They shall not impose any personal liability upon any member of the corporation.

Subd. 4. **Security, payment.** The bonds shall be secured by pledge of the full faith, credit, and resources of the cities in and for which the corporation has been created. The corporation is hereby authorized to pledge such full faith, credit, and resources, and specific consent thereto by each city shall be conclusively presumed from the appointment of commissioners by the council thereof. They shall be paid from tax levies as hereinafter provided, and from earnings of the corporation, or may be secured by mortgage or deed of trust on any of the property owned by the corporation. As to bonds negotiated and sold independent of the original \$15,000,000 authorization plus \$5,000,000, however, the proceeds derived therefrom shall be used by the corporation only for the acquisition of lands, if acquisition of additional lands be necessary, and the construction upon lands, either to be acquired or already acquired, of such revenue producing airport facilities as will be, in the considered judgment of the commissioners of the corporation, self-liquidating over the useful life of such facilities; and such facilities shall be covered by such contracts or by such charges as such commissioners shall establish for the use thereof as will, in the considered judgment of such commissioners, make such facilities self-liquidating; and before the negotiation and sale of any such bonds, such commissioners shall by resolution find, determine and declare that the facilities for which the bonds are to be issued will to the best of their judgment be self-liquidating. The corporation may in like manner issue and sell bonds for the purpose of refunding any bonds

theretofore issued in accordance with this section which by their terms are prepayable at the time of such refunding; and such refunding bonds shall not be included in computing the foregoing limits on amounts of bonds issuable by the corporation.

Subd. 5. Tax levy; surplus; reduction. The corporation, upon issuing any bonds under the provisions of this section, shall, before the issuance thereof, levy for each year, until the principal and interest are paid in full, a direct annual tax on all the taxable property of the cities in and for which the corporation has been created in an amount not less than five percent in excess of the sum required to pay the principal and interest thereof, when and as such principal and interest matures. After any of such bonds have been delivered to purchasers, such tax shall be irrevocable until all such indebtedness is paid, and after the issuance of such bonds no further action of the corporation shall be necessary to authorize the extensions, assessments, and collection of such tax. The secretary of the corporation shall forthwith furnish a certified copy of such levy to the county auditor or county auditors of the county or counties in which the cities in and for which the corporation has been created are located, together with full information regarding the bonds for which the tax is levied, and such county auditor or such county auditors, as the case may be, shall enter the same in the register provided for in section 475.62, or a similar register, and shall extend and assess the tax so levied. If both cities are located wholly within one county, the county auditor thereof shall annually extend and assess the amount of the tax so levied. If the cities are located in different counties, the county auditor of each such county shall annually extend and assess such portion of the tax levied as the net tax capacity of the taxable property, not including moneys and credits, located wholly within the city in such county bears to the total net tax capacity of the taxable property, not including moneys and credits, within both cities. Any surplus resulting from the excess levy herein provided for shall be transferred to a sinking fund after the principal and interest for which the tax was levied and collected has been paid; provided, that the corporation may, on or before October 15 in any year, by appropriate action, cause its secretary to certify to the county auditor, or auditors, the amount on hand and available in its treasury from earnings, or otherwise, including the amount in the sinking fund, which it will use to pay principal or interest or both on each specified issue of its bonds, and the county auditor or auditors shall reduce the levy for that year, herein provided for by that amount. The amount of funds so certified shall be set aside by the corporation, and be used for no other purpose than for the payment of the principal and interest of the bonds. All taxes hereunder shall be collected and remitted to the corporation by the county treasurer or county treasurers, in accordance with the provisions of law governing the collection of other taxes, and shall be used solely for the payment of the bonds where due.

Subd. 6. Must tax as necessary for bonds. This section shall not be construed as limiting the power of the corporation to levy taxes to pay its bonds issued hereunder but such corporation shall have the authority and it shall be its duty to levy any taxes necessary to provide revenue to pay such bonds.

Subd. 7. Keep bonds six years. The treasurer may destroy all redeemed bonds and coupons issued by the commission which have been on file in the treasurer's office for more than six years.

History: 1975 c 13 s 118; 1986 c 444; 1988 c 719 art 5 s 84; 1989 c 329 art 13 s 20

473.666 BONDS, LEGAL INVESTMENTS FOR PUBLIC FUNDS.

Bonds legally issued pursuant to sections 473.601 to 473.679 or acts amendatory thereof or supplemental thereto, may be purchased by the state board of investment for the permanent school fund, permanent university fund, swamp land fund, internal improvement land funds, or any other trust fund of the state of Minnesota, or for any other fund administered by such board, and shall be deemed authorized securities within the provisions of section 50.14, and shall be proper for the investment of capital, surplus, or deposits of any savings bank or trust company, and for the investment of funds of any insurance company, and for the investment of any sinking funds held by any public or municipal corporation, and may be pledged by any bank or trust company as security for the deposit of public moneys therein in lieu of

surety bonds. The bonds shall be deemed and treated as instrumentalities of a public government agency.

History: 1975 c 13 s 119; 1983 c 213 s 24

473.667 GENERAL OBLIGATION REVENUE FINANCING.

Subdivision 1. Scope. The metropolitan airports commission shall have all the powers and duties set forth in this section, in addition to the powers granted and the duties imposed and notwithstanding any limitations of such powers set forth in any other law or city charter provision. These powers and duties are likewise granted to and imposed upon any successor public corporation, agency, or subdivision of the state in which the commission's property, rights, powers, obligations, and duties, or any of them, may in the future be vested by law.

Subd. 2. Borrowing authorization. No additional bonds shall be issued under the provisions of section 473.665, over and above the amount outstanding April 1, 1974. Except for refunding bonds and certificates of indebtedness, the principal amount of bonds that may be issued under this section, over and above the amount of bonds of the commission outstanding January 15, 1988, is limited to \$150,000,000 until and unless this limitation is increased by law. The pledge of revenues of the commission to its debt service fund in lieu of the taxes otherwise required by section 473.665 to be assessed and extended shall be and remain a first charge on all current revenues of the commission to the extent required annually to cancel such taxes.

Subd. 3. General obligation revenue bonds. Subject to the provisions of subdivision 2 the commission may issue bonds for the acquisition and betterment of airports and air navigation facilities, and for the refunding of such bonds and of certificates of indebtedness issued under subdivision 10, in the same manner and with the same powers and duties as a municipality under the provisions of chapter 475 except as otherwise provided in this section. The bonds shall be designated as general obligation revenue bonds, and shall be payable primarily from and secured under resolutions of the commission by an irrevocable pledge and appropriation of the revenues to be derived from rates, fees, charges, and rentals to be imposed, maintained, and collected for all use, service, and availability of airport and air navigation facilities owned and to be owned or operated by the commission. They shall be further secured by the pledge of the full faith and credit of the commission, which shall be obligated to levy upon all taxable property within the metropolitan area a tax at such times and in such amounts, if any, as may be required to provide funds sufficient to pay all of the bonds and interest thereon when due and to maintain a reserve securing such payments in the manner and to the extent provided in this section. This tax, if ever required to be levied, shall not be subject to any limitation of rate or amount. The security afforded by this section extends equally and ratably to all general obligation revenue bonds of the commission, except that nothing herein shall prevent the commission from pledging current revenues from a particular facility or group of facilities first to the payment and security of bonds issued to finance such facilities.

Subd. 4. Debt service fund. The commission shall maintain permanently on its official books and records an account or accounts referred to herein collectively as the debt service fund, separate from all other funds and accounts, to record all receipts and disbursements of money for principal and interest payments on its bonds, and on certificates of indebtedness issued pursuant to subdivision 10. At or before the due date of each principal and interest payment on said bonds and certificates the treasurer shall remit from the debt service fund to the payment agent for the issue an amount sufficient for such payment, without further order from the commission. At or before the time of delivery of any series of bonds the commission shall withdraw from the proceeds thereof, or from revenues then on hand and available for the purpose, and shall deposit in the debt service fund such amount, if any, as may be required to establish in the fund a balance of cash and investments at least equal to the total amount of principal and interest then due and to become due on bonds of the commission to the end of the following year, but not exceeding the total amount of principal and interest then due and to become due on bonds of the commission to the end of the second following year. The commission shall also deposit in the fund on or before October 10 in each year, from revenues received in excess of budgeted current expenses of operation and maintenance of its property and of carrying on its business and activities, or from other available moneys, amounts at

least sufficient to permit cancellation of the taxes referred to in subdivision 2 and to pay principal and interest due on the following year on general obligation revenue bonds of the commission; and, to the extent determined by the commission, sufficient to produce a balance of cash and investments therein not exceeding the total amount of principal and interest due and to become due on all bonds of the commission to the end of the second following year. If such revenues or other available moneys are insufficient in any year to produce the required minimum balance or any larger balance established by the commission, then unless provision is made for restoring the deficiency in accordance with the provisions of subdivision 8, the commission shall levy and appropriate to the debt service fund, and certify to the county auditors of all counties in the metropolitan area, a tax in accordance with subdivision 3 in an amount at least five percent in excess of the deficiency. For the purpose of determining the balance in the debt service fund at any time, investments held therein shall be valued at the principal amount payable at maturity if they mature in the following year, or otherwise at market value, plus the amount of interest receivable thereon to the end of the following year.

Subd. 5. Rates, fees, charges, and rentals. The commission shall be obligated to the holders of its bonds, and to the owners of all property subject to taxation for the payment thereof, to establish, revise from time to time, and collect rates, fees, charges, and rentals for all airport and air navigation facilities and service used by and made available to any person, firm, association, or corporation according to schedules such as to produce revenues at all times sufficient for the requirements of the debt service fund as provided in subdivision 4, and sufficient also to pay when due all expenses of operation and maintenance of the commission's property and of carrying on its business and activities in accordance with law. The payment of such rates, charges, fees, and rentals by any party for the use of any facility or service for any period, other than use permitted to the public generally, shall be secured by a lease or other agreement requiring such party to pay each year an amount sufficient to provide for the payment of a share of the principal and interest due during this period on all bonds of the commission, proportionate to the amount of such bonds issued to provide the facility or service and to the amount of use thereof assured to such party in comparison with others. If a tax is ever required to be levied for a debt service fund deficiency under the provisions of subdivision 4, the commission shall immediately take all action permitted by law and under its leases and other agreements to enforce the payment of rates, fees, charges, and rentals then due, and to raise the amounts thereof payable in the future to the extent required for conformity with subdivision 4 and for repayment of the deficiency with interest at six percent per annum.

Subd. 6. Reimbursement of debt service fund deficiencies. If a debt service fund deficiency tax is ever certified in accordance with subdivision 4, each county auditor shall extend it on the tax roll of the auditor's county in that proportion which the net tax capacity of taxable property within the county then bears to the net tax capacity of all taxable property within the metropolitan area, and shall certify to the commission the amount so extended. Thereafter the commission shall be obligated to repay to the treasurer of each county the amount extended upon its tax roll with interest at six percent per annum from the dates of payment of the deficiency tax to the commission to the date or dates of repayment. The commission shall certify to each county auditor the principal amount to be so paid to the county before October 10 in each subsequent year, and the county auditor shall reduce by this amount the taxes levied by the county which are to be extended upon its tax rolls then in preparation.

Subd. 7. Conditions. Bonds of the commission shall not be conditioned upon an election, but no bonds shall be issued at any time, except for refunding in the cases described in subdivision 8, unless the required balance in the debt service fund is first established in accordance with subdivision 4, and the commission determines on one of the bases described in this subdivision that the revenues to be received by it each year during the term of the proposed issue will be at least sufficient to pay when due all of the commission's bonds and interest thereon, including the new issue but excluding any bonds refunded thereby, and to establish the balance required in the debt service fund by October 10. Before the bonds are delivered to the purchaser, the commission shall secure either:

(a) A report of audit of the commission's financial records for the fiscal year most recently ended or, if this is not yet available, a report for the preceding year, prepared by a nationally recognized firm of certified public accountants, showing that the net revenues re-

ceived that year, computed as the gross receipts less any refunds of rates, fees, charges, and rentals for airport and air navigation facilities and service, less the aggregate amount of current expenses, paid or accrued, of operation and maintenance of property and carrying on the commission's business and activities, equaled or exceeded the maximum amount of then outstanding bonds of the commission and interest thereon to become due in any future fiscal year; or

(b) A lease or other agreement or agreements for the operation or use by one or more airline corporations of the facility for which the bonds are proposed to be issued, requiring such corporation or corporations to pay all costs of operation and maintenance thereof and to pay additional rentals or charges at the times and in not less than the amounts required to pay all of the bonds and interest thereon when due and to establish the annual balance required in the debt service fund to secure such payments, together with a report of audit showing net revenues fulfilling the condition in clause (a) as to all other bonds then outstanding or then to be issued; or

(c) A written report prepared by a nationally recognized consultant on airport management and financing, projecting gross receipts, current expenses, and net revenues at least sufficient during each year of the term of the proposed bonds to pay all principal and interest due on all bonds and to establish and maintain the required annual debt service fund balance, and stating the estimates of air traffic, rate increases, inflation, and other factors on which the projection is based.

Subd. 8. Refunding deficiencies. If in any year the revenues available for transfer to the debt service fund are or will in the judgment of the commission be insufficient to produce the balance required thereon on October 10 under the provisions of subdivision 4, or to make any interest or principal payment due on certificates of indebtedness issued under the provisions of subdivision 10, the commission may, with the approval of the council, issue refunding bonds and appropriate the proceeds to the debt service fund in the amount needed to restore the deficiency, provided that the refunding bonds shall not mature earlier than the date or dates when the commission estimates that the revenues from enforced or increased rates, fees, charges, and rentals will be sufficient to pay them and to meet all other requirements of the debt service fund as stated in subdivision 4.

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

Subd. 9. Additional taxes. Nothing herein shall prevent the commission from levying a tax not to exceed 0.00121 percent of market value on taxable property within its taxing jurisdiction, in addition to any levies found necessary for the debt service fund authorized by section 473.671. Nothing herein shall prevent the levy and appropriation for purposes of the commission of any other tax on property or on any income, transaction, or privilege, when and if authorized by law. All collections of any taxes so levied shall be included in the revenues appropriated for the purposes referred to in this section, unless otherwise provided in the law authorizing the levies; but no covenant as to the continuance or as to the rate and amount of any such levy shall be made with the holders of the commission's bonds unless specifically authorized by law.

Subd. 10. Emergency borrowing. If in any budget year revenue receipts should from any unforeseen cause become insufficient to pay budgeted current expenses, or if a public emergency should necessitate expenditures in excess of revenues anticipated to meet the current budget, the commission may make an emergency appropriation sufficient to meet the deficiency and may authorize the issuance and sale of general obligation certificates of indebtedness in this amount, maturing not later than October 10 in the following budget year, at public or private sale and upon such other terms and conditions as the commission may determine. The principal of and interest on such certificates of indebtedness, unless paid from other revenues, shall be payable from the debt service fund.

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

(1) acquiring by purchase real and personal properties located within the metropolitan area that are related to airline operations to be leased to airline corporations, or to other corpo-

rations affiliated by common ownership with airline corporations, for use in connection with their airline operations, including real and personal properties for use as flight training facilities; and

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

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

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

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

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

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

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

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

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

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

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

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

(d) For purposes of this subdivision, the commission may exercise any powers vested in a redevelopment agency under sections 469.152 to 469.165. Any deed granted or received by the commission and any mortgage granted by the commission in connection with the issuance of the general obligation revenue bonds is exempt from deed tax and mortgage registry tax imposed under chapter 287. The lease must contain covenants and agreements by the airline corporation and any successor in interest providing for: (1) the retention and location of existing employees, operations, and facilities, including headquarters, of the airline corporation in the state until the principal and interest on the last series of bonds are paid; and (2) aircraft noise abatement.

History: 1975 c 13 s 120; 1978 c 531 s 1–3; 1980 c 450 s 1; 1981 c 27 s 1; 1986 c 444; 1988 c 664 s 3; 1988 c 719 art 5 s 84; 1989 c 277 art 4 s 75; 1989 c 329 art 15 s 20; 1991 c 350 art 2 s 1,3,5

473.6671 REVENUE BONDS.

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

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

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

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

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

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

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

(3) aircraft noise abatement; and

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

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

Subd. 2. Security and source of payment. The revenue bonds described in subdivision 1 are payable solely from and secured by the revenues derived by the commission from the leases upon the properties described in subdivision 1, paragraph (a), clause (1), the revenue agreements upon the properties described in subdivision 1, paragraph (a), clause (2), and other revenues as the commission may designate and pledge which are derived from the ownership and operation of its airports, air navigation facilities and other facilities; provided that the pledge and application of all revenues to the payment and security of the revenue bonds are subject and subordinate to the first and prior charge thereon for the payment and security of the commission's general obligation revenue bonds as provided in section 473.667. The revenue bonds shall not be payable from or charged upon any funds or assets of the commission other than the commission revenues expressly pledged to their payment. An owner of the revenue bonds may not compel any exercise of the taxing power of the commission, the state, or any other taxing jurisdiction. Each bond must state in substance the limited nature of the obligations. The revenue bonds may be further secured by an assignment of leases with respect to the properties acquired, financed, or refinanced by the revenue bonds, and (i) with respect to the properties described in subdivision 1, paragraph (a), clause (1), by a mortgage and security agreement upon the properties and by other collateral as is pledged to secure the obligations of the airline corporation or other lessee under the leases on the properties, and (ii) with respect to the properties described in subdivision 1, paragraph (a), clause (2), by other collateral as is pledged to secure the obligations of the airline corporation under the revenue agreements. Any deed granted or received by the commission and any mortgage granted by the commission in connection with the issuance of the revenue bonds is exempt from deed tax and mortgage registry tax imposed under chapter 287. In the resolution, trust indenture,

or other instrument providing for the issuance of the revenue bonds, the commission may provide for or require the creation of accounts from sources specified by the commission for the payment and security of the revenue bonds, including a debt service reserve account, separate from the accounts maintained for payment of the general obligation revenue bonds. The sources specified by the commission may include a portion of the proceeds of revenue bonds or payment by the airline corporation. The leases described in subdivision 1, paragraph (a), clause (1), and the revenue agreements described in subdivision 1, paragraph (a), clause (2), must provide that if the commission determines to pledge any of its revenues to secure the revenue bonds, including revenues deposited into a debt service reserve account for the revenue bonds, the airline corporation concurrently shall pledge assets to the commission as security for repayment of the pledged revenues so that the net unencumbered values of the pledged assets, as independently appraised at the time of issuance and periodically to the satisfaction of the commission during the term of the revenue bonds, is a percentage of the amount of commission revenues so pledged as determined by the commission; provided that the percentage shall not be less than 125 percent.

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

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

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

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

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

History: 1991 c 350 art 2 s 4

473.668 MUNICIPALITIES TO GUARANTEE BONDS OF COMMISSION.

Bonds issued pursuant to the provisions of sections 473.601 to 473.679, by either city shall be secured by the full faith, credit, and resources of the city issuing them, shall be paid from tax levies made in conformity with sections 475.61 and 475.74, and shall be sold in the manner prescribed by section 475.60. No provision of any existing law or special or home rule charter under which either city may be acting shall be deemed or construed to impair, curtail, or limit in amount, form, or manner the power to issue any bonds pursuant to sections 473.601 to 473.679, and the bonds issued by either city or by the corporation pursuant to sections 473.601 to 473.679, shall not be included in computing the net indebtedness of such municipality under any applicable law or charter.

History: 1975 c 13 s 121

473.671 LIMIT OF TAX LEVY.

The taxes levied against the property of the metropolitan area in any one year shall not exceed 0.00806 percent of taxable market value, exclusive of taxes levied to pay the principal or interest on any bonds or indebtedness of the city issued under Laws 1943, chapter 500, and exclusive of any taxes levied to pay the share of the city for payments on bonded indebtedness of the corporation provided for in Laws 1943, chapter 500. The levy of taxes authorized in Laws 1943, chapter 500, shall be in addition to the maximum rate allowed to be levied to defray the cost of government under the provisions of the charter of any city affected by Laws 1943, chapter 500.

History: 1975 c 13 s 122; 1988 c 719 art 5 s 84; 1989 c 277 art 4 s 76

473.672 METROPOLITAN AREA TAX LEVY.

Notwithstanding the provisions of section 473.671 or any other provision of sections 473.601 to 473.679, any tax levy required to be made to pay debt service on any bonds heretofore or hereafter issued by the commission shall not be restricted to the cities of Minneapolis and St. Paul but shall be levied against all the taxable property in the metropolitan area in accordance with the provisions of section 473.667.

History: 1975 c 13 s 123

473.675 LEGAL PROCEEDINGS.

Subdivision 1. Certiorari. A review of any order of the commission may be had upon certiorari in the district court of Ramsey county upon petition of any party to the proceedings before the commission. The court may, in its discretion, stay the operation of the order sought to be reviewed for such time and on such terms as it deems advisable.

Subd. 2. Bonds, when required in public airports litigation. When any action or proceeding at law or in equity has been or shall hereafter be commenced questioning the right, power, or authority of a public corporation created and operating under sections 473.601 to 473.679 to make or perform any contract for the development or improvement of an airport under its control and operation or the structures or facilities thereon or contemplated therefor, or to issue, sell, or deliver the corporations' bonds to pay therefor, the corporation may, if it deems that the pendency of such litigation might, directly or indirectly, delay the completion of such improvement or bond issue or otherwise be injurious to the public interests and taxpayers, move the court in which the litigation is pending to require the party or parties who instituted the same to give a surety bond in accordance with subdivisions 2 to 5.

Subd. 3. Special appearance in litigation by public airports corporation. If the corporation is not a party to the litigation, it may appear specially for the purpose of making and being heard on such a motion. Three days' notice of hearing on the motion shall be given. If the court determines that loss or damage to the public or taxpayers may result from the pendency of the action or proceeding, the court may require the party or parties who instituted the same to give a surety bond, approved by the court or judge, in a penal sum to be determined by the court to protect against such loss or damage, whether or not a temporary injunction or restraining order against the corporation shall have been demanded or ordered. If the bond so ordered be not filed within the reasonable time allowed therefor by the court, the action or proceeding shall be dismissed with prejudice. Such bond shall be executed by the party who instituted the litigation, or some person for the party, as principal and conditioned for the payment to the corporation of such damage as the public and taxpayers shall sustain by reason of the litigation, if the court finally decides that the party or parties were not entitled to the relief sought. The amount of damages may be ascertained by a reference or otherwise as the court shall direct, in which case the sureties shall be concluded as to the amount but the damages shall be recoverable only in an action on the bond. If the party or parties by or for whom such bond is furnished prevails in the litigation, the premium paid on the bond shall be repaid by or taxed against the corporation. During the pendency of the litigation, the court, on motion, may require additional security if found necessary, and upon failure to furnish the same shall dismiss the action or proceeding with prejudice. The court may likewise, on motion, reduce the amount of a bond theretofore required or release the bond upon being shown that the amount is excessive or the bond no longer required.

Subd. 4. **Appeals.** In litigation where a bond has been required and given under subdivision 3 or the court has denied a motion to require a bond, the court shall advance the case on its calendar for trial at the earliest feasible date. An appeal from an appealable order made, or from a judgment entered, in a district court may be taken only within 30 days after entry of judgment or after written notice of the order from the adverse party.

Subd. 5. **Civil damage actions.** Nothing contained in this section shall affect the rights of any aggrieved person to bring a suit for civil damages. No bond shall be required therein except as otherwise provided by law.

History: 1975 c 13 s 124; 1983 c 247 s 161; 1986 c 444

473.679 CONSTRUCTION OF LAW.

Sections 473.601 to 473.679, shall not be construed so as to abridge any of the powers granted by law to the Minnesota aeronautics commission.

History: 1975 c 13 s 125

473.680 TAX INCREMENT FINANCING DISTRICT FOR HEAVY MAINTENANCE FACILITY.

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

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

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

History: 1991 c 350 art 2 s 6

MOSQUITO CONTROL

473.701 DEFINITIONS.

Subdivision 1. **Terms.** As used in sections 473.701 to 473.716, the terms defined in this section have the meanings given them.

Subd. 2. **District.** “District” means the metropolitan mosquito control district created by section 473.702.

Subd. 3. **Commission.** “Commission,” unless otherwise specified, means the metropolitan mosquito control commission created by section 473.702.

Subd. 4. **Commissioner.** “Commissioner” means a member of the commission.

Subd. 5. [Repealed, 1982 c 579 s 9]

Subd. 6. [Repealed, 1982 c 579 s 9]

History: 1975 c 13 s 126; 1982 c 579 s 1–3

473.702 ESTABLISHMENT OF DISTRICT; PURPOSE; AREA; GOVERNING BODY.

A metropolitan mosquito control district is created to control mosquitoes, disease vectoring ticks, and black gnats (Simuliidae) in the metropolitan area defined in section 473.121. The area of the district is the metropolitan area excluding the part of Carver county west of the west line of township 116N, range 24W, township 115N, range 24W, and township 114N, range 24W. The metropolitan mosquito control commission is created as the governing body of the district, composed and exercising the powers as prescribed in sections 473.701 to 473.716.

History: 1975 c 13 s 127; 1982 c 579 s 4; 1983 c 129 s 1; 1989 c 146 s 1

473.703 COMMISSION.

Subdivision 1. **Metro county commissioners.** The district shall be operated by a commission which shall consist of three members from Anoka county, one member from Carver county, three members from Dakota county, three members from Hennepin county, three members from Ramsey county, two members from Scott county, and two members from Washington county. Commissioners shall be members of the board of county commissioners of their respective counties, and shall be appointed by their respective boards of county commissioners.

Subd. 2. **Terms.** The terms of the members of the first commission shall expire on December 31 next following their appointment. Thereafter the terms of the commissioners shall be one year commencing on January 1 of each year.

Subd. 3. **Vacancy.** If a vacancy occurs on the commission, it shall be filled by the appropriate board of county commissioners.

Subd. 4. **Appointment certificate, acceptance.** A person appointed to the commission shall qualify as a commissioner by filing with the director of the commission a written certificate of appointment from the person's county auditor, together with a written acceptance of appointment from the county auditor, together with a written acceptance of the appointment; provided that the members of the first commission shall file in the office of the county auditor of Hennepin county.

Subd. 5. **January organizational meeting.** The commission shall meet on the first Thursday after the first Monday in January of each year in order to select the officers of the commission for the current year and to conduct such other organizational business as may be necessary.

Subd. 6. **Officers.** The officers, who shall be commissioners, shall be a chair, a vice-chair, and a secretary, no two of whom shall be from the same county. The chair shall preside at all meetings of the commission, and in the chair's absence, the vice-chair shall preside. The secretary shall keep a complete record of the minutes of each meeting.

Subd. 7. **Contract signatories.** Contracts and other written instruments of the commission shall be signed by the chair or vice-chair and by the business administrator of the commission pursuant to authority from the commission.

Subd. 8. **Bylaws.** The commission may adopt bylaws to regulate its own proceedings.

Subd. 9. **One vote per member; quorum.** Each commissioner shall have one vote. The majority of the voting power of the commission shall be 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 commission in order to carry.

Subd. 10. **Legislative audit.** The legislative auditor shall audit the books and accounts of the commission once each year or as often as the legislative auditor's funds and personnel permit. The commission shall pay the total cost of the audit pursuant to section 3.9741.

History: 1975 c 13 s 128; 1982 c 579 s 5; 1983 c 129 s 2,3; 1984 c 638 s 6; 1986 c 444

473.704 POWERS AND DUTIES.

Subdivision 1. **Listed here.** The commission shall have the powers and duties set forth in this section.

Subd. 2. **Control programs.** It may undertake control programs in the district in accordance with expert and technical plans.

Subd. 3. **Director; to be entomologist.** It may employ and fix the duties and compensation of a director who shall develop the control programs of the district and shall supervise its execution; such director shall be an entomologist.

Subd. 4. **Business administrator.** It may employ and fix the duties and compensation of a business administrator who shall administer the business affairs of the commission.

Subd. 5. **Employees, contractors; no nepotism.** It may employ such other persons and contract for such other services as may be needed to carry out the control programs in the district, except that no person may be employed by the commission who is related to any commissioner.

Subd. 6. [Repealed, 1996 c 305 art 1 s 108]

Subd. 7. **Materials, supplies, equipment.** It may purchase materials, supplies, and equipment as may be necessary to carry out the control programs in the district.

Subd. 8. **Gifts.** It may accept gifts of property for control program purposes.

Subd. 9. **Surplus property.** It may sell and dispose of any of the property of the commission whenever such property is no longer needed for the purposes of the commission. If the estimated value of any such property is over \$2,500, it shall be sold on competitive bids after two weeks published notice.

Subd. 10. **Minutes; public inspection.** It shall keep proper minutes of all its proceedings which shall be open to public inspection at all reasonable times.

Subd. 11. **Account books.** It shall keep proper and adequate books of accounts showing all its receipts and disbursements by date, source, and amount.

Subd. 12. **Insurance.** It may obtain suitable, proper, and adequate public liability and workers' compensation insurance and such other insurance as it deems necessary.

Subd. 13. **Pacts outside district.** It may enter into agreements with counties, cities or towns of the state of Minnesota outside of the district to conduct control program activities in these political subdivisions in order to effectuate control programs in the district and subdivisions.

Subd. 14. **Money from district counties.** It may collect and receive from all counties in the district the money for operation of the district.

Subd. 15. **Any reasonable and necessary acts.** It may perform whatever other acts are reasonable and necessary to carry out the general and specific powers of the commission.

Subd. 16. **Surety bonds.** It may require employees of the commission who handle commission funds to furnish surety bonds in such amount as is determined by the commission.

Subd. 17. **Entry to property.** Members of the commission, its officers, and employees, while on the business of the commission, may enter upon any property within or outside the district at reasonable times to determine the need for control programs. They may take all necessary and proper steps for the control programs on property within the district as the director of the commission may designate. Subject to the paramount control of the county and state authorities, commission members and officers and employees of the commission may enter upon any property and clean up any stagnant pool of water, the shores of lakes and streams, and other breeding places for mosquitoes within the district. The commissioner of natural resources shall allow the commission to enter upon state property for the purposes described in this subdivision. The commission may apply insecticides approved by the director to any area within or outside the district that is found to be a breeding place for mosquitoes. The commission shall give reasonable notification to the governing body of the local unit of government prior to applying insecticides outside of the district on land located within the jurisdiction of the local unit of government. The commission shall not enter upon private property if the owner objects except for control of disease bearing mosquito encephalitis outbreaks.

Subd. 18. **Research control effects on fauna.** 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.

Subd. 19. **Financial report.** The commission, by December 15 of each even-numbered year, shall prepare and submit to the legislature a financial report that contains the information required by section 473.1623, subdivision 3, in a format consistent with the consolidated financial report required by that subdivision.

Subd. 20. **Cooperation on tick control.** The commission shall consult and cooperate with the state department of health in developing management techniques to control disease vectoring ticks.

History: 1975 c 13 s 129; 1975 c 359 s 23; 1982 c 579 s 6; 1983 c 129 s 4; 1984 c 492 s 1; 1985 c 295 s 3; 1986 c 460 s 52; 1989 c 146 s 2; 1990 c 460 s 4; 1993 c 13 art 1 s 42; 1995 c 255 art 2 s 8; 1996 c 464 art 1 s 6

473.705 CONTRACTS FOR MATERIALS, SUPPLIES AND EQUIPMENT.

No contract for the purchase of materials, supplies, and equipment costing more than \$5,000 shall be made by the commission without publishing the notice once in the official newspaper of each of the counties in the district that bids or proposals will be received. The notice shall be published at least ten days before bids are opened. Such notice shall state the nature of the work or purchase and the terms and conditions upon which the contract is to be awarded, naming therein a time and place where such bids will be received, opened, and read publicly. After such bids have been duly received, opened, read publicly, and recorded, the commission shall award such contract to the lowest responsible bidder or it may reject all bids. Each contract shall be duly executed in writing and the party to whom the contract is awarded may be required to give sufficient bond to the commission for the faithful performance of the contract. If no satisfactory bid is received the commission may readvertise. The commission shall have the right to set qualifications and specifications and to require bids to meet such qualifications and specifications before bids are accepted. If the commission by an affirmative vote of five-sixths of the voting power of the commission shall declare that an emergency exists requiring the immediate purchase of materials or supplies at a cost in excess of \$5,000 but not to exceed \$10,000 in amount, or in making emergency repairs, it shall not be necessary to advertise for bids, but such material, equipment, and supplies may be purchased in the open market at the lowest price available without securing formal competitive bids. An emergency as used in this section shall be an unforeseen circumstance or condition which results in placing life or property in jeopardy. All contracts involving employment of labor shall stipulate terms thereof and such conditions as the commission deems reasonable as to hours and wages.

History: 1975 c 13 s 130; 1982 c 579 s 7

473.706 ADVERSE INTEREST OF COMMISSIONERS.

No commissioner shall have any personal or financial interest in any sale, lease, or other contract made by the commission nor shall a commissioner benefit therefrom directly or indirectly. Any violation of this section may make such sale, lease, or other contract void. Upon conviction for a violation of this section a commissioner shall be automatically disqualified from further service on the commission.

History: 1975 c 13 s 131; 1986 c 444

473.711 FINANCING.

Subdivision 1. **In this section.** The method of providing funds for the commission shall be as set forth in this section.

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.

Subd. 3. Deposits; depository; disbursements. Each county in the district shall turn over to the commission all proceeds of such special tax and any subsequent special tax immediately after such proceeds are received, to be deposited in a bank or banks designated by the commission as its official depository, in an account to be known as the metropolitan mosquito control fund; and such funds may only be expended by the commission for the activities of the commission. Any bank or trust company so designated shall qualify as a depository by furnishing a corporate surety bond or collateral as required by section 118A.03, and shall thereafter, as long as money of the commission in excess of \$10,000 is on deposit therein, maintain such bond or collateral in the amounts required by said section. However, no bond or collateral shall be required to secure any deposit, insofar as it is insured under federal law as provided in section 118A.03. Any county which issues certificates of indebtedness in anticipation of the collection and payment of such special tax shall deposit the funds procured thereby in the metropolitan mosquito control fund and said county shall redeem these certificates of indebtedness out of the special tax levy provided in this section. Any balance shall be deposited in the metropolitan mosquito control fund. All disbursements made pursuant to sections 473.702 to 473.716 shall be made from said fund upon order of the commission signed by the chair or vice-chair and by the business administrator, and each claim voucher shall be signed by the business administrator and shall specify the name of the payee, the amount to be disbursed, and the purpose of the disbursement.

Subd. 4. Certificates of indebtedness. The commission may issue certificates of indebtedness in anticipation of the collection and payment of a tax levied under this section in the same manner as a statutory city under section 412.261 and use their proceeds to accomplish its duties.

Subd. 5. State review. The commission must certify its property tax levy to the commissioner of revenue by August 1 of the levy year. The commissioner of revenue shall annually determine whether the property tax certified by the metropolitan mosquito control commission for levy following the adoption of its budget is within the levy limitation imposed by

subdivision 2. 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 calculation.

History: 1975 c 13 s 132; 1982 c 579 s 8; 1983 c 129 s 5; 1986 c 444; 1986 c 460 s 53; 1987 c 384 art 2 s 1; 1988 c 675 s 21,22; 1988 c 719 art 5 s 84; 1989 c 146 s 3; 1989 c 329 art 13 s 20; 1Sp1989 c 1 art 9 s 69; 1992 c 511 art 2 s 37; art 5 s 15; 1993 c 375 art 7 s 20; 1994 c 505 art 6 s 5; 1995 c 255 art 2 s 9; 1995 c 264 art 16 s 20; 1996 c 399 art 2 s 12

NOTE: Subdivision 2 was also amended by Laws 1994, chapter 416, article 1, section 56, to read as follows:

"Subd. 2. 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. 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 sections 473.701 to 473.716. 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:

(a) for taxes payable in 1988, the product of six-tenths on one mill multiplied by the total assessed valuation of all taxable property located within the district 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, the product of (1) the commission's property tax levy limitation 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 district divided by the assessment year 1987 total market valuation of all taxable property located within the district;

(c) for taxes payable in 1990, 1991, and 1992, 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 assessment year divided by the total market valuation of all taxable property located within the district for the previous assessment year;

(d) for taxes payable in 1993, the product of (1) the commission's certified property tax levy 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; and

(e) for taxes payable in 1994 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 assessment year divided by the total market valuation of all taxable property located within the district for the previous assessment year.

For the purpose of determining the commission's property tax levy limitation 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 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)."

473.712 WITHDRAWAL; ASSETS.

A county may terminate its participation in the district only as provided by other law. If a county terminates its participation in the district, an appraisal of the property of the commission shall be made by a board of appraisers and the value determined as of the termination date. The board shall be three members, one appointed by the terminated county, one by the remaining counties within the district, and the third by the first two. If the first two appraisers cannot agree to the appointment of the third appraiser within 30 days, the commission shall appoint the third appraiser. An amount equal to the withdrawing county's share in the net assets of the commission proportionate to its financial contribution to the metropolitan mosquito control fund shall be paid to the treasurer of the terminated county. If a participating county furnishes specific funds and materials to be used in special projects, they shall be returned to it. If the district is dissolved, all property of the commission shall be sold and the proceeds remaining after the payment of the debts, obligations, and liabilities of the district, along with any balance in the fund, shall be paid to the counties which are members of the district in proportion to their financial contributions.

History: 1983 c 129 s 6

473.713 [Repealed, 1982 c 579 s 9]

473.714 COMPENSATION OF COMMISSIONERS.

Subdivision 1. **Compensation.** Except as provided in subdivision 2, each commissioner, including the officers of the commission shall be reimbursed for actual and necessary expenses incurred in the performance of duties. The chair shall be paid a per diem for attending meetings, monthly, executive, and special, and each commissioner shall be paid a per diem for attending meetings, monthly, executive, and special, which per diem shall be established by the commission. A commissioner who receives a per diem from the commissioner's county shall not be paid a per diem for the same day by the commission for attending meetings of the commission. The annual budget of the commission 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. **Certain commissioners.** A commissioner whose annual public salary is \$25,000 or more shall only be reimbursed for expenses related to travel.

History: 1975 c 13 s 134; 1Sp1985 c 13 s 358; 1986 c 444; 1992 c 511 art 2 s 38

473.715 CONTIGUOUS COUNTIES; MEMBERSHIP.

Any county contiguous to the district may become a party to the district whenever the county board of such county petitions the district to be admitted and the commission by resolution gives its consent to include such county in the district.

History: 1975 c 13 s 135

473.716 COOPERATION WITH OTHER AGENCIES; ADVISORS.

Subdivision 1. **For research, health, welfare.** The commission shall cooperate for the purposes of research and protection of public health and welfare, with the state department of agriculture, the state department of health, the state department of natural resources, the University of Minnesota, the state agricultural experiment station, the state transportation department, the United States Department of Agriculture, and United States Public Health Service.

Subd. 2. **Plans and reports to advisors.** The commissioners of agriculture, of natural resources, of transportation, the commissioner of the Minnesota department of health, and the head of the department of entomology and economic zoology of the University of Minnesota shall act in an advisory capacity to the metropolitan mosquito control commission and the director of said commission shall furnish to each of these departments a copy of the operational plan and pertinent technical reports of said district.

History: 1975 c 13 s 136; 1976 c 166 s 7; 1977 c 305 s 45

473.717 [Repealed, 1982 c 579 s 9]

SOLID AND HAZARDOUS WASTE

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.

Subd. 2. **Local government unit.** "Local government unit" means any municipal corporation or governmental subdivision other than a metropolitan county located in whole or part in the metropolitan area, authorized by law to provide for the processing of solid waste.

Subd. 3. **Agency.** "Agency" means the Minnesota pollution control agency.

Subd. 4. **Application.** Unless otherwise provided the definitions of terms in section 115A.03 shall apply to sections 473.801 to 473.845.

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

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

History: 1975 c 13 s 138; 1976 c 179 s 11,12; 1980 c 564 art 10 s 6; 1981 c 352 s 40; 1984 c 644 s 61,62; 1985 c 274 s 22; 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: 1991 c 337 s 65; 1995 c 247 art 2 s 30

473.802 [Repealed, 1986 c 460 s 59]

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 objec-

tives 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.

Subd. 1d. Plans for required use of resource recovery facilities. Plans proposing designation of resource recovery facilities pursuant to section 473.811, subdivision 10, shall evaluate the benefits of the proposal, including the public purposes achieved by the conservation and recovery of resources, the furtherance of local, district, or regional waste management plans and policies, and the furtherance of the state policies and purposes expressed in section 115A.02, and also the costs of the proposal, including not only the direct capital and operating costs of the facility but also any indirect costs and adverse long-term effects of the designation. In particular the plan shall evaluate:

- (a) whether the required use will result in the recovery of resources or energy from materials which would otherwise be wasted;
- (b) whether the required use will lessen the demand for and use of land disposal;
- (c) whether the required use is necessary for the financial support of the facility;
- (d) whether less restrictive methods for ensuring an adequate solid waste supply are available;
- (e) all other feasible and prudent waste processing alternatives for accomplishing the purposes of the proposed designation, the direct and indirect costs of the alternatives, including capital and operating costs, and the effects of the alternatives on the cost to generators.

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 collection, 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 vol-

ume 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: 1975 c 13 s 140; 1976 c 179 s 14; 1980 c 564 art 10 s 8; 1981 c 352 s 41; 1982 c 424 s 130; 1982 c 569 s 26-28; 1983 c 373 s 57,58; 1984 c 455 s 1; 1984 c 640 s 32; 1984 c 644 s 63-65; 1985 c 274 s 23,24; 1987 c 348 s 41; 1988 c 685 s 30; 1989 c 325 s 54; 1Sp1989 c 1 art 20 s 28; 1991 c 337 s 66,67; 1993 c 249 s 40; 1994 c 585 s 41; 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: 1Sp1989 c 1 art 20 s 29; 1995 c 247 art 2 s 35

473.806 MS 1990 [Repealed, 1991 c 337 s 90]

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 con-

demnation 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 118A.04. 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.

Subd. 2. County financing of facilities. Each metropolitan county may by resolution authorize the issuance of bonds to provide funds for the acquisition or betterment of solid waste facilities, closure, postclosure, and contingency costs, related transmission facilities, or property or property rights for the facilities, for responses, as defined in section 115B.02, to releases from closed solid waste facilities, or for refunding any outstanding bonds issued for any such purpose. The proceeds of bonds issued under this section for closure, postclosure, and contingency costs and noncapital responses to releases may be used only for solid waste facilities in existence on May 15, 1989. The county may pledge to the payment of the bonds and the interest thereon, its full faith, credit, and taxing powers, or the proceeds of any designated tax levies, or the gross or net revenues or charges to be derived from any facility operated by or for the county, or any combination thereof. Taxes levied for the payment of the bonds and interest shall not reduce the amounts of other taxes which the county is authorized by law to levy. The proceeds of the bonds may be used in part to establish a reserve as further security for the payment of the principal and interest of the bonds when due. Bonds issued pursuant to this section may be sold at public or private sale upon such conditions as the county board shall determine. No election shall be required to authorize the issuance of the bonds. Except as otherwise provided, the bonds shall be issued and sold in accordance with the provisions of chapter 475.

Subd. 2a. County solid waste industrial development revenue bonds. A metropolitan county may issue revenue bonds to finance solid waste and related facilities projects located inside or outside the boundaries of cities or towns described in section 368.01 under and pursuant to the provisions of chapter 474.

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

Subd. 3a. Service areas. Metropolitan counties have the authority provided in section 400.08.

Subd. 4. County contracts. Each metropolitan county may contract for the acquisition or use of existing public or private solid waste facilities or any facilities deemed necessary or useful for resource recovery from solid waste and may contract with any person for the operation or maintenance, or both, of any solid waste facility owned by the county. The contract shall provide for the operation or maintenance, or both, of the facility in accordance with any regulations, criteria, and standards of the agency, the metropolitan council and the county relating thereto. Any contract for the operation or maintenance of a solid waste facility may provide for the sale of solid waste, materials, electric energy, steam or other product to the operator or for a fee payable to the operator, which may be a fixed fee, or a fee based on tonnage or a percentage of income or other measure, or any combination thereof. A metropolitan county may warrant to the operator of a solid waste facility or contract purchaser of any solid waste, materials, electric energy, steam or other product the quality, composition and available quantity of the solid waste, materials, electric energy, steam or other product to be sold or delivered. A metropolitan county may enter into an agreement with any local government unit or the University of Minnesota for the purpose of compensating for the local risks, costs, or other effects of a waste processing facility.

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.

Subd. 4b. Contracts; negotiation. Notwithstanding any other law, a metropolitan county may contract for the acquisition, construction, improvement, maintenance or operation of solid waste facilities or property or property rights for solid waste facilities by any means available and in the manner determined by the county board, with or without advertisement for bids. A metropolitan county may select and employ a construction manager for construction and acquisition of solid waste facilities or property or property rights for solid waste facilities and negotiate and enter into a construction management agreement, which may but need not include a guaranteed maximum price. A construction manager shall give a bond to the county in accordance with section 574.26 if a construction management agreement provides for a guaranteed maximum price, provided that the amount of any bond furnished by any contractor or subcontractor for performance of and payment of labor and materials under a contract or subcontract for solid waste facilities or property or property rights for solid waste facilities included in the guaranteed maximum price may be substituted to the extent of the bond amount for the bond of the construction manager. A construction management agreement for acquisition and construction of solid waste facilities or property or property rights for solid waste facilities may be combined with a contract for maintenance or operation, or both, of the facilities and negotiated with the same person.

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 ordi-

nance 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 approve or disapprove the ordinance within 60 days of the submission of a request for review. The ordinance shall remain in effect unless it is disapproved.

(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.

Subd. 5a. Ordinances; solid waste facilities. Each metropolitan county shall by ordinance establish and from time to time revise rules, regulations, and standards for solid waste facilities within the county, relating to location, sanitary operation, periodic inspection and monitoring, maintenance, termination and abandonment, and other pertinent matters. The county ordinance may require facilities accepting mixed municipal solid waste for disposal to install scales. The county ordinance may prohibit disposal facilities from accepting unprocessed mixed municipal solid waste for final disposal. The county ordinance shall require permits or licenses for solid waste facilities and shall require that such facilities be registered with a county office.

Subd. 5b. Ordinances; hazardous waste management. (a) Each metropolitan county shall by ordinance establish and revise rules, regulations, and standards relating to (1) the identification of hazardous waste, (2) the labeling and classification of hazardous waste, (3) the collection, storage, transportation, processing, and disposal of hazardous waste, and (4) other matters necessary for the public health, welfare and safety. The county shall require permits or licenses for the generation, collection, processing, and disposal of hazardous waste and shall require registration with a county office. County hazardous waste ordinances may not be inconsistent with, and must be at least as stringent as, the agency hazardous waste rules. Counties shall submit adopted ordinances to the agency for review. Counties may adopt ordinances for the issuance of permits or licenses for generators, collectors, or processors of hazardous waste that are more stringent than agency rules if the ordinances do not present an obstacle or impediment to implementation of the agency rules. In the event that agency rules are modified, each county shall modify its ordinances accordingly and shall submit the modification to the agency for review within 120 days. Issuing, denying, suspending, modifying, imposing conditions upon, or revoking hazardous waste permits or licenses, and county hazardous waste regulations and ordinances, shall be subject to review, denial, suspension, modification, and reversal by the agency. The agency shall after written notification have 15 days in the case of hazardous waste permits and licenses and 30 days in the case of hazardous waste ordinances to review, suspend, modify, or reverse the action of the county. After this period, the action of the county board shall be final subject to appeal to the district court in the manner provided in chapter 14.

(b) A metropolitan county may not impose a volume-based fee under this subdivision on material that is reused at the facility where the material is generated in a manner that the

facility owner or operator can demonstrate does not increase the toxicity of, or the level of hazardous substances or pollutants or contaminants in, products that leave the facility. A metropolitan county may impose a flat annual fee on a facility that generates the type of material described in the preceding sentence, provided that the fee reflects the reasonable and necessary costs of inspections of the facility. A county imposing a fee under this paragraph must comply with section 373.41.

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.

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

Subd. 7. Joint action. Any local governmental unit or metropolitan agency may act together with any county, city, or town within or without the metropolitan area, or with the pollution control agency or the office 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.

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

Subd. 10. County designation of resource recovery facilities. A qualifying county may be authorized to designate a resource recovery facility under sections 115A.80 to 115A.89.

Subd. 11. [Repealed, 1986 c 425 s 46]

History: 1975 c 13 s 141; 1976 c 179 s 15; 1980 c 564 art 10 s 9; 1981 c 352 s 42-48; 1982 c 424 s 130; 1982 c 569 s 29,30; 1983 c 373 s 60; 1984 c 644 s 66; 1985 c 248 s 70; 1985 c 274 s 25-27; 1986 c 425 s 40,41; 1986 c 460 s 54; 1987 c 291 s 232; 1987 c 384 art 2 s 103-106; 1989 c 325 s 55; 1989 c 335 art 1 s 269; 1989 c 355 s 14; 1991 c 337 s 68-76; 1991 c 342 s 15; 1992 c 593 art 1 s 40; 1993 c 13 art 2 s 12-15; 1993 c 279 s 2; 1994 c 585 s 42,43; 1995 c 186 s 90,91; 1995 c 247 art 1 s 55; art 2 s 36-40; 1996 c 399 art 2 s 12

473.812 RECORDS; INSPECTION.

For the purpose of enforcing section 473.811 or ordinances adopted under that section, a county has the responsibilities and authorities for record inspection under section 115A.882, regardless of whether the county has adopted a designation ordinance under sections 115A.80 to 115A.893.

History: 1994 c 585 s 44

473.813 CITIES, COUNTIES, TOWNS; SOLID WASTE CONTRACTS.

Subdivision 1. For up to 30 years. Notwithstanding any contrary provision of law or charter, and in addition to the powers or authority granted by any other law or charter, a city, county, or town in the metropolitan area may directly negotiate and enter into contracts, for a term not to exceed 30 years, for the delivery of solid waste to a waste facility and the processing of solid waste. Contracts made by direct negotiations shall be approved by resolution adopted by the governing body of the city, county, or town.

Subd. 2. Review by director. 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: 1976 c 179 s 16; 1980 c 564 art 10 s 10; 1995 c 247 art 2 s 41

473.815 MS 1975 Supp [Repealed, 1976 c 179 s 20]

473.821 MS 1975 Supp [Repealed, 1976 c 179 s 20]

473.823 RULES AND PERMITS.

Subdivision 1. [Repealed, 1980 c 564 art 13 s 2]

Subd. 2. [Repealed, 1980 c 564 art 13 s 2]

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. 4. [Repealed, 1980 c 564 art 13 s 2]

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, conditions, 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: 1975 c 13 s 144; 1976 c 179 s 17; 1976 c 239 s 117; 1980 c 564 art 10 s 11-13; 1982 c 569 s 31; 1983 c 373 s 61; 1984 c 644 s 67; 1985 c 274 s 28; 1986 c 444; 1986 c 460 s 55; 1989 c 325 s 56; 1991 c 337 s 77,78; 1994 c 628 art 3 s 204; 1995 c 247 art 2 s 42-44

473.827 Subdivision 1. [Repealed, 1984 c 644 s 82]

Subd. 2. [Repealed, 1982 c 569 s 39; 1984 c 644 s 82]

Subd. 3. [Repealed, 1982 c 569 s 39; 1984 c 644 s 82]

Subd. 4. [Repealed, 1982 c 569 s 39; 1984 c 644 s 82]

Subd. 5. [Repealed, 1982 c 569 s 39; 1984 c 644 s 82]

Subd. 6. [Repealed, 1982 c 569 s 39; 1984 c 644 s 82]

Subd. 7. [Repealed, 1984 c 644 s 82]

473.831 MS 1990 [Repealed, 1991 c 337 s 90]

473.833 MS 1990 [Repealed, 1991 c 337 s 90]

473.834 DEBT SERVICE; SOLID WASTE BONDS.

Subdivision 1. **Certain cities and towns; exemption.** Each city or town in which a solid waste disposal facility is operating after January 1, 1980, shall be permanently exempt from the payments required by this section, if the facility is a commercial facility disposing of mixed municipal solid waste under an agency permit.

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: 1980 c 564 art 10 s 17; 1981 c 352 s 51; 1987 c 348 s 42; 1988 c 719 art 5 s 84; 1989 c 329 art 13 s 20; 1995 c 186 s 92

473.840 MS 1990 [Repealed, 1991 c 337 s 90]

METROPOLITAN LANDFILL ABATEMENT ACT

473.841 CITATION.

Sections 473.842 to 473.847 may be cited as the "metropolitan landfill abatement act."

History: 1984 c 644 s 71

473.842 DEFINITIONS.

Subdivision 1. **Scope.** As used in sections 473.842 to 473.847, the terms defined in this section have the meanings given them.

Subd. 1a. **Closure.** "Closure" means actions that will prevent, mitigate, or minimize the threat to public health and the environment posed by a closed solid waste disposal facility including application of final cover; grading and seeding of final cover; installation of an adequate monitoring system, if necessary; and construction of ground and surface water diversion structures.

Subd. 2. **Market development.** "Market development" means the location and facilitation of markets for materials, substances, energy, or other products contained within or derived from waste.

Subd. 3. **Mixed municipal solid waste disposal facility.** "Mixed municipal solid waste disposal facility" means a waste facility used for the disposal of mixed municipal solid waste.

Subd. 4. **Operator.** "Operator" means:

(1) the permittee of a mixed municipal solid waste disposal facility that has an agency permit; or

(2) the person in control of a mixed municipal solid waste disposal facility that does not have an agency permit.

Subd. 4a. **Postclosure, postclosure care.** "Postclosure" and "postclosure care" mean actions taken for the care, maintenance, and monitoring of a solid waste disposal facility after closure that will prevent, mitigate, or minimize the threat to public health and environment posed by the closed facility.

Subd. 5. **Response.** "Response" has the meaning given it in section 115B.02, subdivision 18.

Subd. 6. **Solid waste disposal facility.** "Solid waste disposal facility" means a waste facility which is used for the disposal of solid waste.

History: 1984 c 644 s 72; 1985 c 274 s 31,32; 1987 c 348 s 43

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.

Subd. 2. **Disposition of proceeds.** After reimbursement to the department of revenue for costs incurred in administering this section, the proceeds of the fees imposed under this section, including interest and penalties, must be deposited as follows:

(1) three-fourths of the proceeds must be deposited in the metropolitan landfill abatement account established in section 473.844; and

(2) one-fourth of the proceeds must be deposited in the metropolitan landfill contingency action trust fund established in section 473.845.

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

An operator having a fee of \$120,000 or more during a fiscal year ending June 30 must pay all fees in the subsequent calendar year by means of a funds transfer as defined in section 336.4A-104, paragraph (a). The funds transfer payment date, as defined in section 336.4A-401, must be on or before the date the fee is due. If the date the fee is due is not a funds transfer business day, as defined in section 336.4A-105, paragraph (a), clause (4), the payment date must be on or before the funds transfer business day next following the date the fee is due.

Subd. 4. **Exchange of information.** Notwithstanding the provisions of section 116.075, the agency may provide the commissioner of revenue with the information necessary for the enforcement of this section. Information disclosed in a return filed under this section is public information. Information exchanged between the commissioner and the agency is public unless the information is of the type determined to be for the confidential use of the agency under section 116.075 or is trade secret information classified under section 13.37. Information obtained in the course of an audit by the department of revenue is private or nonpublic data to the extent that it would not be directly divulged in a return.

Subd. 5. **Penalties; enforcement.** The audit, penalty, and enforcement provisions applicable to taxes imposed under chapter 290 apply to the fees imposed under this section. The commissioner of revenue shall administer the provisions.

Subd. 6. **Rules.** The commissioner of revenue may adopt rules necessary to implement this section.

Subd. 7. [Repealed, 1985 c 274 s 47]

History: 1984 c 644 s 73; 1988 c 719 art 19 s 24; 1989 c 277 art 1 s 31; 1989 c 325 s 60,61; 1989 c 335 art 4 s 94; 1991 c 291 art 17 s 12; 1993 c 375 art 10 s 50; 1994 c 585 s 45; 1995 c 247 art 1 s 56

473.844 METROPOLITAN LANDFILL ABATEMENT FUND.

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

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: 1984 c 644 s 74; 1985 c 274 s 33,34; 1987 c 348 s 44,45; 1989 c 325 s 62; 1989 c 335 art 4 s 95,106; 1991 c 199 art 1 s 76; 1992 c 593 art 1 s 41; 1994 c 585 s 46; 1995 c 247 art 2 s 45,46

473.8441 LOCAL RECYCLING DEVELOPMENT PROGRAM.

Subdivision 1. **Definitions.** "Number of households" has the meaning given in section 477A.011, subdivision 3a.

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.

Subd. 3. **Grants; eligible costs.** Grants may be used to pay for planning, developing, and operating yard waste composting and recycling programs.

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: 1987 c 348 s 46; 1989 c 325 s 63; 1993 c 249 s 41; 1995 c 247 art 2 s 47-49

473.845 METROPOLITAN LANDFILL CONTINGENCY ACTION FUND.

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

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.

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

(1) reasonable and necessary expenses for closure and postclosure care of a mixed municipal solid waste disposal facility in the metropolitan area for a 30-year period after closure, if the agency determines that the operator or owner will not take the necessary actions requested by the agency for closure and postclosure in the manner and within the time requested;

(2) reasonable and necessary response and postclosure costs at a mixed municipal solid waste disposal facility in the metropolitan area that has been closed for 30 years in compliance with the closure and postclosure rules of the agency; or

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

Subd. 4. Expenditure notification. The commissioner shall notify the director of the office and the environment and natural resources committees of the senate and house of representatives, the finance division of the senate committee on environment and natural resources, and the house of representatives committee on environment and natural resources finance before making expenditures from the fund.

Subd. 5. Duty to provide information. The operator or owner of a mixed municipal solid waste disposal facility or a solid waste disposal facility shall provide the necessary information to the agency required by sections 473.842 to 473.847 or by agency rules.

Subd. 6. Access to information and property. The agency or any member, employee, or agent thereof authorized by the agency, upon presentation of credentials, may:

(1) examine and copy any books, papers, records, memoranda, or data of any person who has a duty to provide information to the agency under sections 473.842 to 473.847; and

(2) enter upon any property, public or private, for the purpose of taking any action authorized by this section including obtaining information from any person who has a duty to provide the information, conducting surveys or investigations, and taking response action.

Subd. 7. Recovery of expenses. When the agency incurs expenses for response actions at a facility, the agency is subrogated to any right of action which the operator or owner of the facility may have against any other person for the recovery of the expenses. The attorney general may bring an action to recover amounts spent by the agency under this section from persons who may be liable for them. Amounts recovered, including money paid under any agreement, stipulation, or settlement must be deposited in the metropolitan landfill contingency action fund.

Subd. 8. Civil penalties. The civil penalties of sections 115.071 and 116.072 apply to any person in violation of this section. All money recovered by the state under any statute or rule related to the regulation of solid waste in the metropolitan area, including civil penalties and money paid under any agreement, stipulation, or settlement, shall be deposited in the fund.

History: 1984 c 644 s 75; 1985 c 198 s 1; 1988 c 685 s 34; 1989 c 209 art 1 s 38; 1989 c 325 s 64,65; 1989 c 335 art 4 s 96; 1990 c 604 art 10 s 20; 1991 c 182 s 1; 1991 c 199 art 1 s 77; 1991 c 337 s 79,80; 1991 c 347 art 1 s 18; 1992 c 464 art 1 s 52; 1994 c 585 s 47; 1995 c 220 s 124; 1995 c 247 art 2 s 50; 1996 c 470 s 27

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 environment and natural resources committees of the senate and house of representatives, the finance division of the senate committee on environment and natural resources, and the house of representatives committee on environment and natural resources finance 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 environment and natural resources committees of the senate and house of representatives, the finance division of the senate committee on environment and natural resources, and the house of representatives committee on environment and natural resources finance on the future management and use of the metropolitan landfill abatement account.

History: 1984 c 644 s 76; 1987 c 348 s 47; 1993 c 4 s 33; 1993 c 249 s 42; 1994 c 585 s 48; 1995 c 247 art 1 s 57; 1996 c 470 s 27

473.847 OPERATOR OR OWNER LIABILITY FOR RESPONSE EXPENSES.

The operator or owner of a mixed municipal solid waste disposal facility in the metropolitan area is not liable under any other law for response costs incurred by the agency at that facility under section 473.845, if the facility has been closed for 20 years in compliance with the closure and postclosure rules of the agency. Any provision of this section which relieves the operator or owner of a facility from liability for the payment of the agency's response costs must not be construed to affect the liability of any other person who may be liable for those costs.

History: 1984 c 644 s 77

473.848 RESTRICTION ON DISPOSAL.

Subdivision 1. Restriction. (a) For the purposes of implementing the waste management policies in section 115A.02 and metropolitan area goals related to landfill abatement established under this chapter, a person may not dispose of unprocessed mixed municipal solid waste generated in the metropolitan area at a waste disposal facility unless the waste disposal facility meets the standards in section 473.849 and:

- (1) the waste has been certified as unprocessable by a county under subdivision 2; or
- (2)(i) the waste has been transferred to the disposal facility from a resource recovery facility;
- (ii) no other resource recovery facility serving the metropolitan area is capable of processing the waste; and
- (iii) the waste has been certified as unprocessable by the operator of the resource recovery facility under subdivision 3.

(b) For purposes of this section, mixed municipal solid waste does not include street sweepings, construction debris, mining waste, foundry sand, and other materials, if they are not capable of being processed by resource recovery as determined by the council.

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.

Subd. 3. Facility certification. The operator of each resource recovery facility that receives waste from counties in the metropolitan area shall certify as unprocessable each load of mixed municipal solid waste it does not process. Certification must be made to each county that sends its waste to the facility at intervals specified by the county. Certification must include at least the number and size of loads certified as unprocessable and the reasons the waste is unprocessable. Loads certified as unprocessable must include the loads that would otherwise have been processed but were not processed because the facility was not in operation, but nothing in this section relieves the operator of its contractual obligations to process mixed municipal solid waste.

Subd. 4. Office report. The office shall include, as part of its report to the environment and natural resources committees of the senate and house of representatives, the finance division of the senate committee on environment and natural resources, and the house of representatives committee on environment and natural resources finance 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.

Subd. 5. Definition. For the purpose of this section, waste is "unprocessed" if it has not, after collection and before disposal, undergone separation of materials for resource recovery through recycling, incineration for energy production, production and use of refuse-derived fuel, composting, or any combination of these processes so that the weight of the waste remaining that must be disposed of in a mixed municipal solid waste disposal facility is not more than 35 percent of the weight before processing, on an annual average.

History: 1985 c 274 s 35; 1989 c 325 s 66; 1991 c 337 s 81,82; 1993 c 249 s 43,44; 1994 c 585 s 49,50; 1995 c 247 art 2 s 51,52; 1996 c 470 s 27

473.849 PROHIBITION; SOLID WASTE DISPOSAL.

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

History: 1991 c 337 s 83; 1992 c 593 art 1 s 42

LAND USE PLANNING**473.851 LEGISLATIVE FINDINGS AND PURPOSE.**

The legislature finds and declares that the local governmental units within the metropolitan area are interdependent, that the growth and patterns of urbanization within the area create the need for additional state, metropolitan and local public services and facilities and increase the danger of air and water pollution and water shortages, and that developments in one local governmental unit may affect the provision of regional capital improvements for sewers, transportation, airports, water supply, and regional recreation open space. Since problems of urbanization and development transcend local governmental boundaries, there is a need for the adoption of coordinated plans, programs and controls by all local governmental units and school districts in order to protect the health, safety and welfare of the residents of the metropolitan area and to ensure coordinated, orderly and economic development. Therefore, it is the purpose of sections 462.355, subdivision 4, 473.175, and 473.851 to 473.871 to (1) establish requirements and procedures to accomplish comprehensive local planning with land use controls consistent with planned, orderly and staged development and the metropolitan system plans, and (2) to provide assistance to local governmental units and school districts within the metropolitan area for the preparation of plans and official controls appropriate for their areas and consistent with metropolitan system plans.

History: 1976 c 127 s 1; 1977 c 347 s 68; 1993 c 186 s 11

473.852 DEFINITIONS.

Subdivision 1. **Terms.** As used in sections 462.355, subdivision 4, 473.175, and 473.851 to 473.871, the following terms shall have the meanings given them.

Subd. 2. **Advisory metropolitan land use committee or advisory committee.** "Advisory metropolitan land use committee" or "advisory committee" means an advisory committee established by the metropolitan council pursuant to section 473.853.

Subd. 3. **Applicable planning statute.** "Applicable planning statute" means sections 394.21 to 394.37 for counties and sections 462.351 to 462.364 for cities and towns.

Subd. 4. **Capital improvement program.** "Capital improvement program" means an itemized program for a five year prospective period, and any amendments thereto, subject to at least biennial review, setting forth the schedule, timing, and details of specific contemplated capital improvements by year, together with their estimated cost, the need for each improvement, financial sources, and the financial impact that the improvements will have on the local governmental unit or school district.

Subd. 5. **Comprehensive plan.** "Comprehensive plan" means the comprehensive plan of each local governmental unit described in sections 473.858 to 473.862, and any amendments to the plan.

Subd. 6. **Fiscal devices.** "Fiscal devices" means the valuation of property pursuant to section 273.111, the designation of urban and rural service districts, pursuant to section 272.67, and the establishment of development districts pursuant to sections 469.124 to 469.134, and any other statutes authorizing the creation of districts in which the use of tax increment bonding is authorized.

Subd. 7. **Local governmental unit or unit.** "Local governmental unit" or "unit" means all cities, counties and towns lying in whole or in part within the metropolitan area, but does not include school districts.

Subd. 8. Metropolitan system plans. "Metropolitan system plans" means the airports and transportation portions of the metropolitan development guide, and the policy plans, and capital budgets for metropolitan wastewater service, transportation, and regional recreation open space.

Subd. 9. Official controls or controls. "Official controls" or "controls" means ordinances and rules which control the physical development of a city, county or town or any part thereof or any detail thereof and implement the general objectives of the comprehensive plan. Official controls may include ordinances establishing zoning, subdivision controls, site plan regulations, sanitary codes, building codes and official maps.

Subd. 10. Private sewer facility. "Private sewer facility" means a single lot, multiple lot or other sewage collection or treatment facility owned, constructed or operated by any person other than a local governmental unit or the council.

Subd. 11. School district. "School district" has the meaning given it by section 120.02, subdivisions 14 and 15, and includes any independent or special school district whose administrative offices are located within the metropolitan area as of April 3, 1976.

History: 1976 c 127 s 2; 1977 c 347 s 68; 1985 c 248 s 70; 1986 c 460 s 56; 1987 c 291 s 233; 1994 c 628 art 3 s 205,206

473.853 ADVISORY COMMITTEE.

The council shall establish an advisory metropolitan land use committee pursuant to section 473.127, comprised of 16 members, one from each council district, and as many additional members as are necessary to provide representation from each metropolitan county, plus a chair. At least one-half of the members of the advisory committee shall be elected officials of local governmental units. The members shall be appointed for the same period as the term of the council member for the district in which the member resides.

History: 1976 c 127 s 3; 1977 c 347 s 68; 1986 c 444

473.854 GUIDELINES.

The council shall prepare and adopt guidelines and procedures relating to the requirements and provisions of sections 462.355, subdivision 4, 473.175, and 473.851 to 473.871 which will provide assistance to local governmental units and school districts in accomplishing the provisions of sections 462.355, subdivision 4, 473.175, and 473.851 to 473.871.

History: 1976 c 127 s 4; 1977 c 347 s 68

473.855 [Repealed, 1996 c 310 s 1]

473.856 METROPOLITAN SYSTEM STATEMENTS; AMENDMENTS.

Local governmental units shall consider in their initial comprehensive plans submitted to the council, and school districts shall consider in their initial capital improvement programs submitted to the council, any amendments or modifications to metropolitan system plans which were made by the council and transmitted prior to January 1, 1978. Thereafter, within nine months after receiving an amendment to a metropolitan system plan, each affected local governmental unit shall review its comprehensive plan and each affected school district shall review its capital improvement program to determine if an amendment is necessary to ensure continued conformity with metropolitan system plans. If an amendment is necessary, the governmental unit or school district shall prepare the amendment and submit it to the council for review pursuant to sections 462.355, subdivision 4, 473.175, and 473.851 to 473.871.

History: 1976 c 127 s 6; 1977 c 347 s 68

473.857 SYSTEM STATEMENTS; RECONCILIATION PROCEDURES.

Subdivision 1. Request for hearing. If a local governmental unit or school district and the council are unable to resolve disagreements over the content of a system statement, the unit or district may by resolution request that a hearing be conducted by the advisory committee or by the state office of administrative hearings for the purpose of considering amend-

ments to the system statement. The request shall be made by the unit or district within 60 days after receipt of the system statement and shall be accompanied by a description of the disagreement together with specified proposed amendments to the system statement. If no request for a hearing is received by the council within 60 days, the statement shall be final.

Subd. 2. Within 60 days; report. A hearing shall be conducted within 60 days after the request, provided that the committee shall consolidate hearings on related requests. The hearing shall not consider the need for or reasonableness of the metropolitan system plans or parts thereof. The hearing shall afford all interested persons an opportunity to testify and present evidence. The advisory committee or administrative law judge may employ the appropriate technical and professional services of the office of dispute resolution for the purpose of evaluating disputes of fact. The proceedings shall not be deemed a contested case. Within 30 days after the hearing, the committee or hearing examiner shall report to the council respecting the proposed amendments to the system statements. The report shall contain findings of fact, conclusions, and recommendations and shall apportion the costs of the proceedings among the parties.

Subd. 3. Final determination. Within 30 days of receipt of the report, the council, by resolution containing findings of fact and conclusions, shall make a final determination respecting the proposed amendments. At any point in the reconciliation procedure established by this section, the council and a local governmental unit or district may resolve their disagreement by stipulation.

History: 1976 c 127 s 7; 1977 c 347 s 68; 1980 c 615 s 60; 1981 c 356 s 241; 1983 c 289 s 115 subd 1; 1984 c 640 s 32; 1987 c 312 art 1 s 26 subd 2; 1993 c 163 art 1 s 32

473.858 COMPREHENSIVE PLANS; LOCAL GOVERNMENTAL UNITS.

Subdivision 1. No conflicting zoning, fiscal device, official control. 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.

Subd. 2. Adjacent review, comment. Local governmental units shall submit their proposed plans to adjacent governmental units and affected school districts for review and comment at least six months prior to submission of the plan to the council and shall submit copies to them on the submission of the plan to the council.

Subd. 3. When to council. The plans shall be submitted to the council following approval by the planning commission of the unit and after consideration but before final approval by the governing body of the unit.

Subd. 4. Status of old, new programs, plans, controls. Comprehensive plans, capital improvement programs, sewer policy plans and official controls of local governmental units adopted prior to the requirements of sections 462.355, subdivision 4, 473.175, and 473.851

to 473.871 shall remain in force and effect until amended, repealed or superseded by plans or controls adopted pursuant to sections 462.355, subdivision 4, 473.175, and 473.851 to 473.871. Existing comprehensive plans, capital improvement programs, sewer policy plans, and official controls may be amended and new capital improvement programs and official controls may be prepared and adopted prior to the submission to the council of comprehensive plans required by sections 462.355, subdivision 4, 473.175, and 473.851 to 473.871.

History: 1976 c 127 s 8; 1977 c 347 s 68; 1985 c 62 s 4; 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.

Subd. 3. Public facilities plan. A public facilities plan shall describe the character, location, timing, sequence, function, use and capacity of existing and future public facilities of the local governmental unit. A public facilities plan must be in at least such detail as may be necessary to establish existing or potential effects on or departures from metropolitan system plans and to protect metropolitan system plans. A public facilities plan shall contain at least the following parts:

(1) a transportation plan describing, designating and scheduling the location, extent, function and capacity of existing and proposed local public and private transportation services and facilities;

(2) a sewer policy plan describing, designating and scheduling the areas to be sewered by the public system, the existing and planned capacities of the public system, the standards and conditions under which the installation of private sewer systems will be permitted, and to the extent practicable, the areas not suitable for public or private systems because of public health, safety and welfare considerations;

(3) a parks and open space plan describing, designating and scheduling the existing and proposed parks and recreation open spaces within the jurisdiction; and

(4) a water supply plan including:

(i) a description of the existing water supply system, including the source of water, well and treatment plant locations, and major supply lines; an inventory of commercial and industrial users; an indication of the community's intent to make future changes or additions to the system, including projections for population and industrial and commercial use and the methods by which this growth will be served;

(ii) a statement of the community's objectives, policies, and standards for operating the water supply system;

(iii) a conservation program that contains the goals of the program, demand and supply conservation techniques to be used, an evaluation of pricing methods that could be used to reduce demand, the conditions under which conservation actions would occur, a process for reducing nonessential uses according to the priority system under section 103G.261, and the education program that will be used to inform the public of the need to conserve and the methods available to achieve conservation;

(iv) an emergency preparedness or contingency plan, as described in section 103G.291, subdivision 3;

(v) an indication of the possibility for joint efforts with neighboring communities or other public entities for sharing water sources and treatment, interconnection for routine or emergency supply, pursuit of alternative supplies, and water source protection;

(vi) a statement of the water supply problems that the community experiences or expects to experience and any proposed solutions, especially those that would impact other communities or the region; and

(vii) a wellhead protection plan prepared in accordance with rules adopted by the commissioner of health under section 103I.101, subdivision 5, clause (9).

Subd. 4. Implementation program. An implementation program shall describe public programs, fiscal devices and other specific actions to be undertaken in stated sequence to implement the comprehensive plan and ensure conformity with metropolitan system plans. An implementation program must be in at least such detail as may be necessary to establish existing or potential effects on or departures from metropolitan system plans and to protect metropolitan system plans. An implementation program shall contain at least the following parts:

(1) a description of official controls, addressing at least the matters of zoning, subdivision, water supply, and private sewer systems, and a schedule for the preparation, adoption, and administration of such controls;

(2) a capital improvement program for transportation, sewers, parks, water supply, and open space facilities; and

(3) a housing implementation program, including official controls to implement the housing element of the land use plan, which will provide sufficient existing and new housing to meet the local unit's share of the metropolitan area need for low and moderate income housing.

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.

Subd. 6. Plan review. The council shall, by January 1, 1994, prepare guidelines for the preparation of the water supply plans required in subdivision 3, clause (4). The plans must be submitted to the council by January 1, 1996. The council shall review the plans under section

473.175, subdivision 1, after submitting them to affected counties that have adopted ground-water plans under section 103B.255 for their review and comment.

History: 1976 c 127 s 9; 1977 c 347 s 68; 1978 c 786 s 20; 1993 c 186 s 12-14; 1995 c 176 s 6-8

473.86 CITIES.

Except as provided in the metropolitan system statement, comprehensive plans of cities shall include the matters specified in section 473.859.

History: 1976 c 127 s 10; 1977 c 347 s 68

473.861 TOWNS.

Subdivision 1. **As in section 473.859.** Except as provided in the metropolitan system statement, comprehensive plans of towns shall include the matters specified in section 473.859.

Subd. 2. **By 1976.** By December 31, 1976, each town within the counties of Anoka, Carver, Dakota, Scott and Washington, authorized to plan under sections 462.351 to 462.364, or under special law, shall by resolution determine whether it will prepare the comprehensive plan for its jurisdiction. Each such town also shall specify, pursuant to agreement with the county within which it is situated, any parts of its plan and official controls, if any, the preparation of which it delegates to the county.

Subd. 3. **Use county.** Towns within counties which have adopted comprehensive plans applicable to the town shall, to the maximum extent, use county preparation of their comprehensive plans.

History: 1976 c 127 s 11; 1977 c 347 s 68

473.862 METRO COUNTIES OTHER THAN HENNEPIN, RAMSEY.

Subdivision 1. **Contents of plan.** Comprehensive plans of counties shall contain at least the following:

(a) Except for the counties of Hennepin and Ramsey, a land use plan as specified in section 473.859, subdivision 2, for all unincorporated territory within the county;

(b) A public facilities plan which shall include all appropriate matters specified in section 473.859, subdivision 3, including a transportation plan, and a description of existing and projected solid waste disposal sites and facilities;

(c) An implementation program, as specified in section 473.859, subdivision 4.

Subd. 2. **Towns with no plan by 1976.** Each county other than Hennepin and Ramsey shall prepare, with the participation and assistance of the town, the comprehensive plan for any town within the county which fails by December 31, 1976, to take action by resolution pursuant to section 473.861, subdivision 2 and shall prepare all or part of any plan delegated to it pursuant to section 473.861, subdivision 2.

Subd. 3. **Towns that cannot plan.** Each county other than Hennepin and Ramsey shall prepare, with the participation and assistance of the town, the comprehensive plan for each town within the county not authorized to plan under sections 462.351 to 462.364, or under special law.

History: 1976 c 127 s 12; 1977 c 347 s 68

473.863 SCHOOL DISTRICTS; CAPITAL IMPROVEMENT PROGRAMS.

Subdivision 1. **Before 1980.** By January 1, 1980, each school district as defined in section 473.852, subdivision 11, shall prepare and submit to the metropolitan council, for review pursuant to section 473.175, a capital improvement program, which shall include a description of existing facilities, projected population and facility needs and objectives, proposed new school sites, buildings, and building additions with a cost of more than \$200,000 and the effect of the program on adjacent school districts and affected local governmental units.

Subd. 2. **Adjacent review, comment.** Each school district shall submit its capital improvement program for review and comment to the local governmental units lying in whole

or in part within the district and to adjacent school districts at least nine months prior to the submission of the program to the council. The local governmental units and adjacent districts shall review the program and provide comments to the school district and the council within 90 days on the compatibility of the program with the proposed comprehensive plans of the local governmental units and the capital improvement programs of the school districts.

Subd. 3. When to council. The capital improvement programs shall be submitted to the council after consideration but before final approval by the governing body of the district.

Subd. 4. Status, effect of old, new programs. Capital improvement programs of school districts adopted prior to the requirements of sections 462.355, subdivision 4, 473.175, and 473.851 to 473.871 shall remain in force and effect until amended, repealed, or superseded by programs adopted pursuant to sections 462.355, subdivision 4, 473.175, and 473.851 to 473.871. Existing programs may be amended as appropriate and new programs prepared and adopted prior to the submission to the council of programs required by sections 462.355, subdivision 4, 473.175, and 473.851 to 473.871. Existing programs 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.

History: 1976 c 127 s 13; 1977 c 347 s 68

473.864 PLANS AND PROGRAMS; ADOPTION; AMENDMENT.

Subdivision 1. When adopted. Each local governmental unit shall adopt its comprehensive plan with required modifications within nine months following a final decision, order, or judgment made pursuant to section 473.866. Each school district shall adopt its capital improvement program, after receiving and considering the council's review statement sent pursuant to section 473.175 and making any amendments which the school district determines may be appropriate.

Subd. 2. Decennial review. 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: 1976 c 127 s 15; 1977 c 347 s 68; 1981 c 242 s 1; 1995 c 176 s 9

473.865 ADOPTION; CONFLICTS, AMENDMENT OF CONTROLS, DEVICES.

Subdivision 1. Control copies to council. Each local governmental unit shall adopt official controls as described in its adopted comprehensive plan and shall submit copies of the official controls to the council within 30 days following adoption thereof, for information purposes only.

Subd. 2. No conflict with plans. A local governmental unit shall not adopt any official control or fiscal device which is in conflict with its comprehensive plan or which permits activity in conflict with metropolitan system plans.

Subd. 3. Amendments. If an official control conflicts with a comprehensive plan as the result of an amendment to the plan, the official control shall be amended by the unit within nine months following the amendment to the plan so as to not conflict with the amended comprehensive plan.

History: 1976 c 127 s 16; 1977 c 347 s 68

473.866 CONTESTED CASES; ADMINISTRATIVE AND JUDICIAL REVIEW.

The council's decision to require modification under section 473.175 may be contested by the affected local governmental unit. The unit shall have 60 days within which to request a hearing on the council's decision to require modification. If within 60 days the unit has not requested a hearing, the council shall make its final decision with respect to the required modifications. If an affected unit requests a hearing, the request for hearing shall be granted, and the hearing shall be conducted within 60 days by the state office of administrative hearings in the manner provided by chapter 14 for contested cases. The subject of the hearing shall not extend to questions concerning the need for or reasonableness of the metropolitan system plans or any part thereof. In the report of the administrative law judge the costs of the hearing shall be apportioned among the parties to the proceeding. Within 30 days after the receipt of the report the council shall, by resolution containing findings of fact and conclusions, make a final decision with respect to the required modifications of the comprehensive plan. Any party to the proceeding aggrieved by the decision of the council may appeal to the court in the manner provided in chapter 14 for contested cases. The record on appeal shall consist of: (1) the administrative law judge's record and report, and (2) the findings, conclusions and final decision of the council. The scope of review shall be that of section 14.69, provided that: (1) the court shall not give preference to either the administrative law judge's record and report or the findings, conclusions and final decision of the council, and (2) the decision of the court shall be based upon a preponderance of the evidence as contained in the record on appeal. The costs of the appeal shall be apportioned by the court.

History: 1976 c 127 s 17; 1977 c 347 s 68; 1980 c 615 s 60; 1982 c 424 s 130; 1984 c 640 s 32

473.867 PLANNING ASSISTANCE; GRANTS; LOANS.

Subdivision 1. Advisory materials, models, assistance. The council shall prepare and provide advisory materials, model plan provisions and official controls, and on the request of a local governmental unit may provide assistance, to accomplish the purposes of sections 462.355, subdivision 4, 473.175, and 473.851 to 473.871. The council may also provide specific technical and legal assistance in connection with the preparation, adoption and defense of plans, programs, and controls.

Subd. 2. Planning assistance fund. The council shall establish a planning assistance fund as a separate bookkeeping account in its general fund for the purpose of making grants and loans to local governmental units under this section. The council shall adopt uniform procedures for the award, disbursement and repayment of grants and loans.

Subd. 3. Loans, grants. Local governmental units may apply, contract for and receive loans and grants as provided herein, and the provisions of chapter 475 shall not apply to loans

made pursuant hereto. Applications for grants and loans shall be submitted to the council describing the activities for which the grant or loan funds will be used; the persons which the grantee or borrower plans to use in performing the grant contract; services and activities which will be paid for by funds of the grantee or borrower; the grantee or borrower's need and ability to pay for the contract services; and other information as the council may reasonably request. Grants and loans shall be made subject to contracts between the council and the recipient specifying the use and disbursement of the funds and, for loans, the terms and conditions of repayment, and other appropriate matters. In making grants and loans, the council shall base its decisions on the recipient's demonstrated need and available financial resources.

Subd. 4. 75 percent limit. Grants shall not exceed 75 percent of the total costs and expenses of the project, service or activity for which a grant is awarded.

Subd. 5. Loan terms. Loans made by the council shall be payable on such terms and conditions as the council determines appropriate, provided that no loan shall carry an interest rate nor be for a term in excess of five years. Funds received in payment of loans shall be credited to the planning assistance fund and shall be used for additional loans or grants under this section.

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: 1976 c 127 s 18; 1977 c 347 s 68; 1995 c 176 s 10

473.868 HOUSING.

Subdivision 1. Legislative findings. The legislature finds and determines that there is a need for housing in the metropolitan area, that an increasingly large majority of the residents of the metropolitan area are unable to afford housing, and that it is in the public interest that, for certain portions of the buildable residential land, the official controls imposed on development by municipalities in the metropolitan area be required to permit the construction of modest cost housing by the private sector which could be afforded by a significant portion of the families in the metropolitan area.

Subd. 2. Buildable residential land. As used in this section, "buildable residential land" means land within a municipality which is suitable for development, zoned for a residential use, which has access to sewer and water service, and for which no building permit has been issued.

Subd. 3. Advisory committee. The chair of the council shall establish a modest cost private housing advisory committee consisting of not more than 15 persons consisting of local elected officials, consumers and persons experienced in the field of housing construction, trades and management and mortgage banking, plus ex officio members as the chair of the council may determine, to provide advice and make recommendations on the effects of governmental rules, taxes, financing and housing industry practices on the costs of housing. The committee shall investigate and make recommendations on all matters necessary including standards and criteria for modest cost private housing as follows:

(1) A zoning classification and ordinances that take into account minimum and maximum single family lot sizes.

(2) Building requirements contained within the state building code.

(3) Minimum and maximum square foot area requirements for single family homes.

(4) The requirement of a single family garage and off-street parking requirements.

(5) Zoning classification and ordinances that take into account density requirements for multifamily construction.

(6) Minimum and maximum square foot floor areas for multifamily units.

(7) Requirements of garages for multifamily units, credits for garage inclusion and off-street parking requirements.

Subd. 4. Report to legislature. On or before January 15, 1977, the council shall, following public hearings, submit to the legislature a report on the findings of the committee

and the council's recommendations for ensuring an adequate supply of modest cost private housing.

History: 1976 c 127 s 19; 1977 c 347 s 68; 1985 c 248 s 70; 1986 c 444

473.869 EXTENSION.

A local governmental unit may by resolution request that the council extend the time for fulfilling the requirements of sections 462.355, subdivision 4, 473.175, and 473.851 to 473.871. A request for extension shall be accompanied by a description of the activities previously undertaken by a local governmental unit in fulfillment of the requirements of sections 462.355, subdivision 4, 473.175, and 473.851 to 473.871, and an explanation of the reasons necessitating and justifying the request. Upon a finding of exceptional circumstances or undue hardship, the council may, in its discretion, grant by resolution a request for extension and may attach reasonable requirements or conditions to the extension.

History: 1976 c 127 s 20; 1977 c 347 s 68

473.87 LEVY FOR INCREASED COSTS.

The increased costs to a municipality of implementing sections 473.175; 473.858, subdivisions 1 to 3; 473.859 to 473.862; and 473.866 shall be deemed a levy and the proceeds of any tax levied under this section shall be deposited in the municipal treasury in a separate fund and expended only for the purposes authorized by this section.

History: 1976 c 127 s 22; 1977 c 347 s 68; 1Sp1989 c 1 art 5 s 40

473.871 NEW MUNICIPAL SEWER SYSTEMS.

Notwithstanding the provisions of sections 462.355, subdivision 4, 473.175, and 473.851 to 473.871 the council shall have no authority under this chapter to require a local governmental unit to construct a new sewer system.

History: 1976 c 127 s 23; 1977 c 347 s 68

473.872 [Repealed, 1994 c 465 art 1 s 56]

473.875 [Repealed, 1990 c 391 art 10 s 4; Renumbered 103B.201]

473.876 [Repealed, 1990 c 391 art 10 s 4; Renumbered 103B.205 subd 10a]

473.877 [Repealed, 1990 c 391 art 10 s 4; Renumbered 103B.211 subdivision 1]

473.8771 [Repealed, 1990 c 391 art 10 s 4]

473.8775 [Renumbered 103B.227]

473.878 [Repealed, 1990 c 391 art 10 s 4; Renumbered 103B.231, subs 1-6,8,10,12-14]

473.8785 [Repealed, 1990 c 391 art 10 s 4]

473.879 [Repealed, 1990 c 391 art 10 s 4; Renumbered 103B.235 subd 2]

473.88 [Renumbered 103B.239]

473.881 [Repealed, 1990 c 391 art 10 s 4; Renumbered 103B.241]

473.882 [Repealed, 1990 c 391 art 10 s 4; Renumbered 103B.245, subdivision 1]

473.883 [Repealed, 1990 c 391 art 10 s 4; Renumbered 103B.251, subs 5,8,9]

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. **NPSAC channels.** "NPSAC 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 regionwide 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. Standards. The board is authorized to set or adopt performance and technical 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; 1996 c 463 s 46

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 118A.03. 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; 1996 c 399 art 2 s 12

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 public funds by section 118A.04. 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; 1996 c 399 art 2 s 10

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

Subdivision 1. Costs covered by fee. For each fiscal year beginning with the fiscal year commencing July 1, 1997, the amount necessary to pay the following costs is appropriated to the commissioner of administration 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.

This appropriation 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 appropriation for each fiscal year 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, in the fiscal year.

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; 1996 c 463 s 47

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 safe-

ty 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