

## Political Subdivisions, General Provisions

### CHAPTER 465

### RIGHTS, POWERS AND DUTIES; MUNICIPALITIES

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#### **465.01 POWER OF EMINENT DOMAIN.**

All cities may exercise the power of eminent domain for the purpose of acquiring private property within or without the corporate limits thereof for any purpose for which it is authorized by law to take or hold the same by purchase or gift and may exercise the power of eminent domain for the purpose of acquiring a right-of-way for sewerage or drainage purposes and an outlet for sewerage or drainage within or without the corporate limits thereof. The procedure in the event of condemnation shall be that prescribed by chapter 117, or that prescribed by the charter of such city.

**History:** (1829) *RL s 766; 1917 c 424 s 1; 1973 c 123 art 5 s 7; 2006 c 214 s 20*

#### **465.013 PROPERTY OR EASEMENTS NOT ACQUIRED BY PRESCRIPTION.**

No city of the first class or any board or department thereof shall hereafter obtain or acquire title to real property or any right or easement therein by prescription or adverse possession. This section shall not be construed to prevent the adjudication hereafter of title in such city in cases where lapse of time and adverse possession have already ripened into title but no adjudication thereof has yet been had.

**History:** *1943 c 582 s 1,2*

#### **465.02 LANDS DEEDED TO STATE; MODIFICATION OF CONDITIONS.**

Any city in this state, that has heretofore deeded, or may hereafter deed, to the state of Minnesota any lands to be used by the state for a public purpose in such deed stated, conditioned, among other things, that such lands shall be so used by the state for a period of time, which time exceeds 20 years, and in case such use is not made thereof for the stated time, then such land shall revert to such city, may at any time after 15 years from the date of the deed by a majority vote of the city council at any regular meeting thereof, or at a properly called special meeting of such council, pass a resolution or enact an ordinance modifying the terms and conditions above specified and permit the noncompliance by the state with such terms and conditions as originally made, either wholly or in part, and such resolution so adopted shall operate as a release of the state from such terms and conditions to the extent provided in such resolution and the action by the state in conformity with such resolution shall not in any way cause a reversion to such city of the lands or any part thereof or interest therein.

**History:** (1930) *1911 c 182 s 1; 1973 c 123 art 5 s 7*

#### **465.025 GIFTS OF LAND TO STATE.**

Any municipal corporation in the state of Minnesota, owning lands in fee simple and not restricted by the grant, which are no longer necessary for municipal purposes, may convey said lands to the state of Minnesota without consideration when duly authorized by the governing body of said municipal corporation and the governor is authorized to accept such conveyances in behalf of the state.

**History:** *1947 c 8 s 1*

**465.026** [Repealed, 1987 c 291 s 244]

**465.03 GIFTS TO MUNICIPALITIES.**

Any city, county, school district or town may accept a grant or devise of real or personal property and maintain such property for the benefit of its citizens in accordance with the terms prescribed by the donor. Nothing herein shall authorize such acceptance or use for religious or sectarian purposes. Every such acceptance shall be by resolution of the governing body adopted by a two-thirds majority of its members, expressing such terms in full.

**History:** (1830) *RL s 767; 1913 c 319 s 1; 1949 c 294 s 1; 1973 c 123 art 5 s 7*

**465.035 PUBLIC CORPORATION, CONVEYANCE OR LEASE OF LAND.**

Any county, town, city or other public corporation may lease or convey its lands for a nominal consideration, without consideration or for such consideration as may be agreed upon to the state or to any governmental subdivision, to the United States or to any agency of the federal government, another public corporation or to the Minnesota State Armory Building commission for public use when authorized by its governing body.

**History:** *1947 c 34 s 1; 1951 c 73 s 1; 1955 c 142 s 1; 1957 c 152 s 1; 1973 c 123 art 5 s 7*

**465.036 GIFTS, HOSPITALS.**

Counties or cities, however organized, may accept gifts to aid in building, acquiring, equipping or maintaining public hospitals whether such hospital is maintained by a county or a city, or by any combination thereof.

**History:** *1949 c 152 s 1; 1973 c 123 art 5 s 7*

**465.037 GIFTS TO HOSPITALS AND EMERGENCY MEDICAL SERVICES AGENCIES.**

A home rule charter or statutory city or town may make grants for the use of a private, nonprofit, or public hospital that serves the city or town, or to an emergency medical services agency as defined in section 144.7401, that serves the city or town. The grants must be authorized by the council in the case of a city and the town board in the case of a town upon the affirmative vote of the town electors at the annual or a special town meeting.

**History:** *1989 c 92 s 2; 2012 c 226 s 1*

**465.039 GIFTS TO ORGANIZATIONS DISTRIBUTING FOOD.**

The governing body of a county, or of a home rule charter or statutory city, may appropriate each year out of its general fund, or other unrestricted money, an amount to be determined by the governing body to provide grants to nonprofit organizations operating community food shelves that provide food to the needy without charge.

**History:** *1995 c 109 s 1; 1998 c 368 s 1*

**465.04 ACCEPTANCE OF GIFTS.**

Cities of the second, third, or fourth class, having at any time a market value of not more than \$41,000,000, exclusive of money and credits, as officially equalized by the commissioner of revenue, either under home rule charter or under the laws of this state, in addition to all other powers possessed by them, hereby are authorized and empowered to receive and accept gifts and donations for the use and benefit of such cities and the inhabitants thereof upon terms and conditions to be approved by the governing bodies of such cities; and such cities are authorized to

comply with and perform such terms and conditions, which may include payment to the donor or donors of interest on the value of the gift at not exceeding five percent per annum payable annually or semiannually, during the remainder of the natural life or lives of such donor or donors.

**History:** (1663) 1923 c 395 s 1; 1973 c 582 s 3; 1988 c 719 art 5 s 84; 1989 c 329 art 13 s 20; 1990 c 480 art 9 s 19

#### **465.05 TAX LEVY TO PAY INTEREST.**

When any such city shall so accept such gift or donation the governing body thereof shall have the right to enter such a written contract for the payment of such interest so determined upon, it shall be the duty of the city council annually, at the time other taxes are levied, to levy a tax sufficient to pay such obligation so incurred.

**History:** (1664) 1923 c 395 s 2

**465.06** [Repealed, 1976 c 44 s 70]

**465.07** [Repealed, 1976 c 44 s 70]

**465.08** [Repealed, 1976 c 44 s 70]

**465.09** [Repealed, 1963 c 798 s 16]

**465.091** [Repealed, 1963 c 798 s 16]

**465.10** [Repealed, 1963 c 798 s 16]

**465.11** [Repealed, 1963 c 798 s 16]

**465.12** [Repealed, 1963 c 798 s 16]

**465.121** [Repealed, 1963 c 798 s 16]

#### **465.13 JUDGMENT AGAINST MUNICIPALITY; PAYMENT.**

No execution shall issue on a judgment for the recovery of money against a city, except as hereinafter provided. Upon delivery of a certified copy of the judgment, the treasurer of such municipality shall pay it out of any moneys in or coming in not otherwise appropriated, unless collection thereof be stayed on appeal, always retaining a sufficient sum to pay necessary current expenses; and, if the treasurer fails so to do, the treasurer and bonding agents shall be liable for the amount. In case there be no such treasurer, then, upon delivery of such certified copy and an affidavit of the judgment creditor, the judgment creditor's agent or attorney, showing the amount due, and that the judgment has not been stayed on appeal, the county treasurer shall pay such judgment out of the funds of the municipality in or coming in, taking receipt therefor.

**History:** (1834) RL s 769; 1973 c 123 art 5 s 7; 1986 c 444

#### **465.14 TAX LEVY; EXECUTION.**

When a judgment against a city is unpaid at the time of the annual tax levy, unless the proper officers thereof have otherwise provided sufficient funds to pay the same before the time for collection of such tax levy, they shall levy a tax to pay such judgment and certify the same and the purpose thereof to the county auditor. If the judgment be not paid within 20 days after the time fixed by law for the county treasurer to pay over to the treasurer of the municipality the moneys on hand belonging to it on account of such annual tax levy, execution may issue on such

judgment, but only the property of such municipality shall be liable thereon. If there be no officers of the municipality to levy such tax, the judgment creditor may apply to the county auditor, who, upon being satisfied that the judgment has not been paid or stayed, shall levy and extend the tax.

**History:** (1836) *RL s 770*; 1973 *c 123 art 5 s 7*; 1986 *c 444*

#### **465.15 CITIES MAY ACQUIRE EXEMPT PROPERTY.**

Each city of the first class now or hereafter having a population of 50,000 inhabitants or more, including each such city operating under a charter adopted pursuant to the provisions of the Constitution of the state of Minnesota, article IV, section 36, article XI, section 4, or article XII, section 5, is hereby authorized and empowered to acquire by purchase, condemnation, or otherwise any right or interest in land either platted or unplatted within the limits of the city, which interest in land consists of a right or privilege in the owner of the land to offset certain amounts against special assessments levied by the governing body, the city council, or the board of park commissioners of such city for park or parkway purposes, or both.

**History:** (1541-1) 1931 *c 385 s 1*; 1997 *c 7 art 4 s 6*

#### **465.16 POWER OF EMINENT DOMAIN.**

In the event that the chief governing body, city council or board of park commissioners of such city shall exercise such right by condemnation such body may do so under any laws provided for the condemnation of real property or eminent domain or under any provision of the charter of such city granting to such body the right of condemnation or power of eminent domain; or, it being for the best interests of such city, such chief governing board, city council, or board of park commissioners shall have the power and authority to acquire the rights by purchase, taking into consideration the present worth of such right to exemption and the probability or improbability that such exemptions would ever be used as an offset to future assessments for benefits.

**History:** (1541-2) 1931 *c 385 s 2*; 2006 *c 214 s 20*

#### **465.17 MAY ISSUE BONDS.**

In order to carry out the purpose of sections 465.15 to 465.17 each such city is hereby authorized to issue bonds or certificates of indebtedness to secure funds for the amount necessary to acquire the right and the city council or other chief governing body shall levy annually a tax on all the taxable property of the city sufficient to meet the interest and the principal about to mature on the bond.

**History:** (1541-3) 1931 *c 385 s 3*

#### **465.18 [Repealed, 1990 c 391 art 10 s 4]**

#### **465.19 CITY TO OWN OLD CHANNEL IF IT PAYS FOR UNITED STATES CHANNEL CHANGE.**

When any portion of the channel of any river navigable for commercial purposes within the limits of any city in this state is changed by or under the authority of the United States government or any other authority for the improvement of navigation and the cost of such change or any portion thereof is borne by the city within which change is made the old bed of the river or portion thereof abandoned by reason of any such change, shall belong to and become the property in fee simple of the city in which the same is situate without further act or ceremony. The recording, in the office of the county recorder of the county in which such city is located, of a copy of this section together with the filing of a plat or map certified by the secretary of defense

of the United States or the United States government engineer in charge of the changes of the channel hereinbefore referred to, showing the respective locations of the water line of the old or original bed of the river and such changed location, shall constitute sufficient evidence of title of such city to the old river bed and lands hereinbefore referred to. Upon the request of any such city the governor and the commissioner of management and budget shall also execute and deliver to such city a deed of conveyance transferring all of the right, title, and interest of the state of Minnesota in and to such old river bed and lands within the limits of such city, and the lands so reclaimed or acquired may be held, used, or disposed of by such city as the common council shall determine to be for the best interests of such city.

**History:** (1350) 1911 c 291 s 2; 1973 c 492 s 14; 1976 c 2 s 135; 1976 c 181 s 2; 2005 c 4 s 114; 2009 c 101 art 2 s 109

#### **465.20 APPLICATION.**

Sections 465.19 and 465.20 shall apply to all cities including those now or hereafter governed by a charter adopted pursuant to the Constitution of the state of Minnesota, article IV, section 36, article XI, section 4, or article XII, section 5.

**History:** (1351) 1911 c 291 s 3; 1990 c 391 art 8 s 48; 1997 c 7 art 4 s 7

**465.21** [Repealed, 1965 c 670 s 14]

**465.22** [Repealed, 1965 c 670 s 14]

**465.23** [Repealed, 1965 c 670 s 14]

**465.24** [Repealed, 1965 c 670 s 14]

**465.25** [Repealed, 1965 c 670 s 14]

#### **465.26 DIVERSION OF UNNAVIGABLE STREAMS; RAISING WATERS OF LAKES.**

Any first class city may, if in the judgment of its city council, the public health or welfare of its citizens will be promoted thereby, divert any unnavigable stream, flowing wholly or partly within the corporate limits, from its natural bed to an artificial channel or to another watercourse. The diversion may take place at any feasible or desirable point within or without the corporate limits, and the new channel may be created within or without or partly within and partly without the corporate limits. For the purpose of controlling and regulating the flow of such stream in its new channel, the city may, by the erecting of dams or other suitable means, raise the waters of any lake or lakes from which the stream may flow, or through which the new channel may flow, and control and regulate the discharge from such lake or lakes, and straighten, enlarge, and make such changes and improvements in the channels as may be necessary for such purposes. Such new channels may, where necessary, cross any highway or railway; in which case suitable bridges shall be provided.

**History:** (1509) 1905 c 18 s 1; 1976 c 44 s 65

#### **465.27 ORDINANCE; SURVEY AND MAP.**

The city council shall by ordinance first adopt and file with the city clerk a survey and map showing the point at which it is proposed to divert the stream, the route of the new channel, the sites of dams and other controlling works, the lands proposed to be taken for right-of-way and for flowage purposes, the levels to which it is proposed to raise and between which it is proposed to maintain the waters of any lake, a profile of the route and of the water surface, the cross-section

of the proposed new channel, the enlargement, if any, of any existing channel, the bridges, tunnels, culverts to be built, and in general, the entire extent and scope of the improvement as nearly as may be.

**History:** (1510) 1905 c 18 s 2

#### **465.28 LANDS; HOW ACQUIRED.**

The city council may acquire in the name of the city by grant, dedication, purchase, or devise the lands and the rights necessary to carry out such improvements.

**History:** (1511) 1905 c 18 s 3

#### **465.29 CONDEMNATION; SPECIAL ASSESSMENTS.**

The power of eminent domain and the power to levy special assessments for benefits are hereby delegated to such cities for the purposes of sections 465.26 to 465.48, to acquire the lands and rights needed or any of them, to be exercised as follows.

**History:** (1512) 1905 c 18 s 4

#### **465.30 ORDINANCE; APPRAISERS.**

The city council shall by ordinance determine and declare as nearly as may be the cost of such improvements, exclusive of damages to property, and appoint five appraisers, who shall be disinterested freeholders and qualified voters of the county, and none of whom shall be residents of the town or ward or wards of the city in which the property so designated is situated, to view the premises and appraise the damages which may be occasioned by the taking of private property or otherwise in making such improvement, and to assess special benefits resulting therefrom. These appraisers shall be notified as soon as practicable by the city clerk to attend, at a time fixed by the clerk, for the purpose of qualifying and entering upon their duties. When a vacancy may occur among these appraisers by neglect or refusal of any of them to act or otherwise, such vacancy shall be filled by the city council.

**History:** (1513) 1905 c 18 s 5; 1986 c 444

#### **465.31 OATH.**

The appraisers shall be sworn to discharge their duty as appraisers in the matter with impartiality and fidelity; and to make due return of their acts to the city council.

**History:** (1514) 1905 c 18 s 6

#### **465.32 NOTICE OF MEETING.**

The appraisers shall give notice of their meeting in a manner appropriate to inform the public, which notice shall name the stream to be diverted, the point of diversion, the general course of the new channel and the height to which it is proposed to raise or maintain any lake, the location of proposed bridges, culverts, or tunnels, the estimated cost of construction, and contain a description of the lands designated by the city council to be taken for right-of-way and for flowage purposes, and give notice that a plan of the improvement has been filed in the office of the city clerk, and that the appraisers will meet at a place and time designated in the notice, and thence proceed to view the premises and appraise the damages for property to be taken, or which may be damaged by the diversion of water or otherwise by such improvement, and to assess benefits in the

manner hereinafter specified. If any portion of such stream or of the lands to be taken is outside of the county containing such city, then the notice shall also be given in the outside county.

**History:** (1515) 1905 c 18 s 7; 1984 c 543 s 61

#### **465.33 MAILING NOTICES.**

A copy of all subsequent notices relating to the proceeding which are required to be published, shall be mailed by the city clerk immediately after the first publication thereof to such persons as shall have appeared in the proceedings and requested in writing that such notices be mailed to them.

**History:** (1516) 1905 c 18 s 8

#### **465.34 MEETING OF APPRAISERS; DAMAGES AND BENEFITS.**

At the time and place mentioned in the notice, the appraisers shall meet and thence proceed to view the premises, and hear any evidence or proof offered by the parties interested and may adjourn from time to time for the purpose aforesaid. When their view and hearing shall be concluded they shall determine the amount of damages, if any, suffered by each piece or parcel of land affected by the improvement. They shall determine the amount of special benefits, if any, occurring by reason of diversion of water, drainage, or otherwise, to each piece or parcel of land wherever situate and whether contiguous to the improvement or not. If the damages exceed the benefits to any particular piece, the excess shall be awarded as damages. If the benefits exceed the damages to any particular piece, the difference shall be assessed as benefits, but the total assessment for benefits shall not be greater than the aggregate net award of damages added to the estimated cost of construction; and in every case the benefits assessed upon the several parcels shall be in proportion to the actual benefits received, and no assessment upon any particular piece shall exceed the amount of actual special benefits after deducting the damages, if any.

**History:** (1517) 1905 c 18 s 9

#### **465.35 BUILDINGS.**

If there be any buildings standing, in whole or in part, upon any parcel of the land to be taken, the appraisers shall, in such case, determine the amount of damages which should be paid to the owners thereof, in case such building, or so much as may be necessary, should be taken, and shall appraise and determine the amount of damages to be paid such owners in case they shall elect to remove such buildings.

**History:** (1518) 1905 c 18 s 10

#### **465.36 DIFFERENT OWNERS OR INTERESTS.**

If the land and buildings belong to different persons or if the land be subject to lease, mortgage, or judgment, or if there be any estate less than an estate in fee, the injury or damage done to such person, or interests, respectively, may be awarded to them separately by the appraisers. Neither such award of the appraisers, nor the confirmation thereof by the city council, shall be deemed to require the payment of such damages to the person or persons named in such award, in case it shall transpire that such persons are not entitled to receive the same.

**History:** (1519) 1905 c 18 s 11



**465.37 REPORT.**

The appraisers having ascertained and appraised the damages and assessed the benefits, as aforesaid, shall make and file with the city clerk a written report of their action in the premises, embracing a schedule and appraisal of the damages awarded and benefits assessed, with descriptions of the lands, and the names of the owners, if known to them, and a statement of the costs of the proceeding.

**History:** (1520) 1905 c 18 s 12

**465.38 NOTICE OF APPRAISEMENT; CONFIRMATION OR ANNULMENT.**

Upon such report being filed, the city clerk shall give notice that such appraisal has been returned and that the same will be considered by the city council at a meeting thereof to be named in the notice, which notice shall contain the schedule of damages awarded and benefits assessed and be given in a manner appropriate to inform the public. Any person interested in any building standing in whole or in part upon any land required to be taken by such improvement shall, on or before the time specified for the meeting in such notice, notify the city council in writing of the person's election to remove such building, if the person so elect. The city council, upon the day fixed for the consideration of such report, or at any subsequent meeting to which the same may stand over or be referred, shall have power in their discretion to confirm, revise, or annul the appraisal and assessment, giving due consideration to any objections interposed by parties interested in the manner hereinafter specified; provided that the city council shall not have the power to reduce the amount of any award nor increase any assessment. In case the appraisal and assessment is annulled, the city council may thereupon appoint new appraisers, who shall proceed in like manner as in case of the first appraisal, and upon the coming in of their report, the city council shall proceed in a like manner and with the same powers as in the case of the first appraisal.

**History:** (1521) 1905 c 18 s 13; 1984 c 543 s 62; 1986 c 444

**465.39 AWARD; APPEAL.**

If not annulled or set aside, such award shall be final and a charge upon the city, for the payment of which the credit of the city shall be pledged. Such assessments shall be and remain a lien and charge upon the respective lands until paid. The award shall be paid to the persons entitled thereto or deposited and set apart in the treasury of the city for the use of the persons entitled thereto within six months after the confirmation of the appraisal and award. In case any appeal shall be taken from the order confirming the appraisal and assessment, as hereinafter provided, the time for payment of the awards shall be extended until and including 60 days after the final determination of all appeals taken in the proceedings, and in case of any change in the awards or assessment upon appeal, the city council may, by resolution duly adopted, at any time within 60 days after the determination of all appeals, set aside the entire proceeding. Any awards so set aside shall not be paid, and the proceedings as to the tracts for which the awards are so set aside shall be deemed abandoned. Any awards not so set aside shall be a charge upon the city, for the payment of which the credit of the city shall be pledged. All awards shall bear interest at the rate of six percent per annum from the time of the filing of the original appraisers' report, and all subsequent awards and awards upon appeals shall be made as of the day and date of filing of such original reports.

**History:** (1522) 1905 c 18 s 14

**465.40 VESTURE OF TITLE.**

Upon the conclusion of the proceedings and the payment of the awards, the several tracts of land shall be deemed to be taken and appropriated for the purposes of sections 465.26 to 465.48, and the title thereto shall vest in the city. In case the city council shall in any case be unable to determine to whom the damages should in any particular case be paid, or in case of adverse claim in relation thereto, or in case of the legal disability of any person interested, the city council shall, and in any and every case the city council may in its discretion deposit the amount of damages with the district court of the county in which such city is situate, for the use of the parties entitled thereto, and the court shall, upon the application of any person interested, and upon such notice as the court shall prescribe, determine who is entitled to the award, and shall order the same paid accordingly. Any such deposit shall have the same effect as the payment to the proper persons.

**History:** (1523) 1905 c 18 s 15

**465.41 REMOVAL OF BUILDINGS.**

In case any owner of buildings, as aforesaid, shall have elected to remove the buildings they shall be removed within 30 days from the confirmation of the report or within such further time as the city council may allow for the purpose and shall be entitled to the payment of the amount of damages awarded in such case in case of removal. When such person shall not have elected to remove such buildings, or shall have neglected (after having elected) to remove the same within the time above specified, such buildings, or so much thereof as may be necessary, upon paying or depositing the damages awarded for such taking in manner aforesaid, may be taken and appropriated, sold, or disposed of as the city council shall elect.

**History:** (1524) 1905 c 18 s 16; 1986 c 444

**465.42 APPEAL; OBJECTIONS; NOTICE; RECORD.**

Any person whose property is proposed to be taken or interfered with or assessed under any provisions of sections 465.26 to 465.48, or who claims to be damaged by the improvement, and who deems that there is any irregularity in the proceedings of the city council, or action of the appraisers, by reason of which the award of the appraisers ought not to be confirmed, or who is dissatisfied with the amount of damages awarded for the taking of, or interference with the person's property, or the assessment thereon, may, at any time before the time specified for the consideration of the award and assessment by the city council, file with the city clerk in writing objections to such confirmation, setting forth therein specifically the particular irregularities complained of, and the particular objection to the award or assessment, and containing a description of the property, affected by such proceedings and the person's interest therein, and if, notwithstanding such objections, the city council shall confirm the award or assessment, such persons so objecting shall have the right to appeal from such order of confirmation of the city council to the district court of the county in which the city is situate within 20 days after such order. Such appeal shall be made by serving a written notice of appeal upon the city clerk, which shall specify the property of the appellant affected by such award or improvement, and refer to the objection filed, as aforesaid, thereupon the city clerk, at the expense of the appellant, shall make out and transmit to the court administrator of the district court a copy of the record of the entire proceedings and of the award of the appraisers as confirmed by the city council, and of the order of the city council confirming the same, and of the objections filed by the appellant, as aforesaid, and of the notice of appeal, all certified by the city clerk to be true copies, within ten days after the taking of such appeal. If more than one appeal be taken in the same proceeding, it

shall not be necessary that the city clerk in appeals subsequent to the first shall send up anything but a certified copy of the appellant's objections. There shall be no pleading on any appeal, but the court shall determine in the first instance whether there was in the proceedings any such irregularity or omission of duty prejudicial to the appellant and specified in the written objection that as to that appellant the award or assessment of the appraisers ought not to stand, and whether the appraisers had jurisdiction to take action in the premises.

**History:** (1525) 1905 c 18 s 17; 1986 c 444; 1Sp1986 c 3 art 1 s 82

#### **465.43 HEARING; APPRAISERS; AWARD; APPEAL.**

The case may be brought on for hearing on eight days' notice, at any general or special term of the court, and the judgment of the court shall be to confirm or annul the proceedings, only so far as the proceedings affect the property of the appellant proposed to be taken or damaged or assessed, and described in the written objection. In case the amount of damages or benefits assessed is complained of by the appellant, the court shall, if the proceedings be confirmed in other respects, appoint three disinterested freeholders, residents of the county, appraisers, to reappraise the damages, and reassess benefits as to the property of appellant. The parties to the appeal shall be heard by the court upon the appointment of the appraisers. The court shall fix the time and place of meeting of the appraisers. They shall be sworn to the faithful discharge of their duties as appraisers, and shall proceed to view the premises and to hear the parties interested, with their allegations and proofs pertinent to the question of the amount of damages or benefits, and proceed in all other material respects as are provided in sections 465.26 to 465.48 for the government of appraisers appointed by the city council. They shall, after the hearing and view of the premises, report to the court their award of damages and assessments of benefits in respect to the property of the appellant. The appellant shall, within five days of notice of filing the award, file a written election to remove the buildings if the appellant so elect. The election shall not affect the appellant's right to a review. The award shall be final unless set aside by the court. The motion to set aside shall be made within 15 days. If the report is set aside, the court may, in its discretion, recommit it to the same appraisers, or appoint new appraisers, as it deems best. The court shall allow to the appraisers a reasonable compensation for their services, and make such awards of costs on the appeal, including the compensation of appraisers, as it deems just in the premises, and enforce them by execution. If the court is of the opinion that the appeal was frivolous or vexatious, it may adjudge double costs against the appellant. An appeal may be taken to the court of appeals from any final order of the district court in the proceedings.

**History:** (1526) 1905 c 18 s 18; 1983 c 247 s 159; 1986 c 444

#### **465.44 TIME OF PAYMENT.**

In case of any appeal the time for making payment of awards shall be extended as to all tracts embraced in the proceeding to 60 days after final determination of all appeals.

**History:** (1527) 1905 c 18 s 19

#### **465.45 NOTICE OF PENDENCY; PERSONS AFFECTED.**

The notice prescribed in section 465.32 shall be sufficient to charge all persons whose rights or interests may be affected by the diversion of such waters, but whose lands are not otherwise taken, with notice of the pendency of the proceeding, and all such persons may present to the appraisers evidence of the damages which they will suffer, and the appraisers shall determine and award such damages as they may find, particularly specifying in their award the location and the

nature of such damages, and all persons failing to present their claims for damages arising from the diversion of waters, shall be concluded by the proceeding hereunder, whether any award of damages is made to them or not, and shall be barred from claiming damages afterwards in any other form of action or proceeding.

**History:** (1528) 1905 c 18 s 20

#### **465.46 AWARD, ASSESSMENT CERTIFIED; ASSESSMENT PROCESS.**

Upon the final determination of all appeals in such proceeding, the city clerk shall transmit to the auditor of the county or counties in which the respective lands lie a copy duly certified by the clerk of the awards and assessment of the appraisers as confirmed by the city council; and the court administrator of the district court shall, in like manner, certify the award and assessment as finally made upon all appeals; and the county auditors shall include such assessments of benefits against each tract of land assessed, with and as a part of the taxes upon such respective tracts of land in the next annual list of taxes for general, state, county and other purposes, and the same proceedings shall be had for the collection and enforcement thereof, as for such general taxes, including like penalties in case of nonpayment, and including also proceedings for the collection and enforcement of delinquent taxes. When any of such assessments are collected, they shall be credited to the city conducting such proceedings, and paid over and accounted for in like manner as other taxes.

**History:** (1529) 1905 c 18 s 21; 1986 c 444; 1Sp1986 c 3 art 1 s 82

#### **465.47 DUTY OF CITY.**

It shall be the duty of such city to proceed with all reasonable dispatch to complete such improvements, unless the proceedings are set aside by the city council as provided in sections 465.26 to 465.46.

**History:** (1530) 1905 c 18 s 22

#### **465.48 POWERS AND DUTIES OF COUNCIL; PENALTIES.**

The city council shall have power and it shall be its duty after the construction of such works to maintain the same and to prevent injury or obstruction to the channel or works and contamination of the waters. For such purposes the city council may enact suitable ordinances and prescribe penalties for their violation, not exceeding a fine of \$100 for each offense or confinement in the city workhouse not exceeding 90 days. The district court having chambers in the county in which the city is located shall have jurisdiction of the offenses.

**History:** (1531) 1905 c 18 s 23; 1998 c 254 art 2 s 48

#### **465.49 MAY SELL LAKE WATER, ICE; SPEND, GET GIFTS TO KEEP UP LAKE.**

All cities of the fourth class and the city councils of the same, in addition to all powers now possessed by such cities, shall have the power to dredge lakes wholly or partly within the corporate limits of such cities, to park the shores thereof, maintain a water level in such lakes, and expend money therefor.

Such cities are given the right to accept donations from any person, firm, or corporation to aid in defraying such expenses and such cities and the city councils thereof shall have the power to make contracts with any person, firm, or corporation for the taking of water and ice from such

lake upon such terms and conditions as may be agreed upon between such city council and the person, firm, or corporation acquiring the right to the use of the water and ice.

**History:** (1746) 1913 c 331 s 1

#### **465.50 OBSERVANCE OF MEMORIAL DAY.**

The council of each and every city in the state, in addition to all other powers now possessed by it, is hereby empowered and authorized to set apart, appropriate, and expend, or cause to be expended, in such manner as it may deem best, from any funds in the city treasury available therefor, an amount not to exceed the sum of \$300 annually for each 75,000 of population of such city for the purpose of aiding in the appropriate observance of Memorial Day on the last Monday in May of each year and in the annual commemoration of the noble and valiant deeds of the nation's soldier dead.

**History:** (1318) 1909 c 365 s 1; 1923 c 375; 1971 c 25 s 81

**465.51** [Repealed, 1976 c 44 s 70]

**465.52** [Repealed, 1976 c 44 s 70]

**465.53** [Repealed, 1987 c 291 s 244]

#### **465.54 MAY PAY EXPENSES FROM GENERAL FUND OF STATUTORY CITY.**

The council of any statutory city may pay from the general fund of the municipality, for the purposes of section 469.186, expenses incurred by the governing officers in the performance of their official duties. Trips for lobbying purposes or trips to meetings or conventions not in connection with specific municipal projects pending before the officer making the trip are not authorized for payment under this section.

**History:** (1192-4, 1192-5) 1933 c 60 s 4,5; 1973 c 123 art 5 s 7; 1977 c 50 s 2; 1987 c 291 s 223; 1994 c 505 art 4 s 4

**465.55** [Repealed, 1987 c 291 s 244]

**465.56** [Repealed, 1987 c 291 s 244]

**465.57** [Repealed, 1976 c 44 s 70]

#### **465.58 MEMBERS OF THE LEAGUE OF CITIES.**

Subdivision 1. **Dues, annual meeting expense.** Any city of this state, whether organized under the general laws or a special or home rule charter, or any town having the powers of a statutory city under section 368.01, may appropriate through its council or town board, out of its general fund, money to pay the annual dues in the League of Minnesota Cities and the actual and necessary expenses of such delegates as such council or town board may designate to attend meetings of the league.

Subd. 2. [Repealed, 1957 c 935 s 27]

**History:** (1933-4) 1923 c 211 s 1; 1951 c 259 s 1; 1961 c 49 s 1; 1973 c 123 art 5 s 7; 1977 c 347 s 54

**465.59** [Repealed, 1976 c 44 s 76]

**465.60** [Renumbered 413.135]

**465.61** [Repealed, 1976 c 44 s 70]

**465.62** [Repealed, 1963 c 798 s 16]

**465.63** [Repealed, 1976 c 44 s 70]

**465.64** [Repealed, 1976 c 44 s 70]

**465.65** [Repealed, 1976 c 44 s 70]

**465.66** [Repealed, 1976 c 44 s 70]

**465.67** [Repealed, 1976 c 44 s 70]

**465.68** [Repealed, 1976 c 44 s 70]

**465.681** [Repealed, 1996 c 310 s 1]

**465.69 TRAINING OF SCHOOL SAFETY PATROL MEMBERS.**

Any statutory city of this state may provide for the training of members of the school safety patrol at any authorized school patrol camp located in this state and may pay the expense necessarily incurred in providing such training, out of any funds available for said purpose.

**History:** *1955 c 316 s 1; 1973 c 123 art 4 s 11*

**465.70 TELEVISION SIGNAL DISTRIBUTION SYSTEMS, CERTAIN CITIES.**

Any statutory city or any home rule charter city of the third or fourth class more than 50 miles from the boundaries of a city of the first class, or any two or more of such cities acting under an agreement accepted by the governing body of each such participating municipality, may own, construct, acquire, purchase, maintain and operate within its corporate limits a television signal distribution system for the purpose of receiving, transmitting, and distributing television impulses and television energy, including audio signals and transient visual images, to the inhabitants of the city. This system shall be considered a public utility. The city may erect, construct, operate, repair, and maintain in, upon, along, over, across, through and under its streets, alleys, highways and public grounds, poles, cross-arms, cables, wires, guy wires, stubs, anchors, towers, antennas, pipes, connections, and other appliances, fixtures, and equipment necessary, expedient, or useful in connection therewith. It may prescribe reasonable rates and charges for the use of these facilities and the services furnished. It may prescribe, make and maintain rules for the operation thereof and do all things necessary and incidental to accomplish such purpose. Subject to and in accordance with chapter 475, the city may issue obligations in a maximum amount of \$100,000 for acquisition and betterment of the system.

**History:** *1957 c 100 s 1; 1959 c 257 s 1; 1973 c 123 art 5 s 7; 1976 c 44 s 66*

**465.71 INSTALLMENT, LEASE PURCHASE; CITY, COUNTY, TOWN, SCHOOL.**

A home rule charter city, statutory city, county, town, or school district may purchase personal property under an installment contract, or lease real or personal property with an option to purchase under a lease-purchase agreement, by which contract or agreement title is retained by the seller or vendor or assigned to a third party as security for the purchase price, including interest, if any, but such purchases are subject to statutory and charter provisions applicable to the purchase of real or personal property. For purposes of the bid requirements contained in section 471.345, "the amount of the contract" shall include the total of all lease payments for the entire term of the

lease under a lease-purchase agreement. The obligation created by a lease-purchase agreement for personal property or a lease-purchase agreement for real property if the amount of the contract for purchase of the real property is less than \$1,000,000 shall not be included in the calculation of net debt for purposes of section 475.53, and shall not constitute debt under any other statutory provision. No election shall be required in connection with the execution of a lease-purchase agreement authorized by this section. The city, county, town, or school district must have the right to terminate a lease-purchase agreement at the end of any fiscal year during its term.

**History:** 1965 c 266 s 1; 1976 c 44 s 67; 1979 c 3 s 1; 1982 c 523 art 15 s 4; 1988 c 639 s 6; 1989 c 329 art 5 s 16; 1990 c 562 art 5 s 12; 1997 c 231 art 2 s 33

**465.715** [Repealed, 2000 c 455 art 1 s 4]

### **465.717 CREATION OF CORPORATIONS.**

Subdivision 1. **Statutory authorization required.** A county, home rule charter city, statutory city, town, school district, or other political subdivision, including a joint powers entity operating under section 471.59, may not create a corporation, whether for profit or not for profit, unless explicitly authorized to do so by law.

Subd. 2. **Authority to incorporate a joint powers entity.** A joint powers entity created under section 471.59 may incorporate itself as a nonprofit under chapter 317A. A corporation created under this subdivision shall comply with every law that applies to the participating political subdivisions and shall possess no greater authority or power than that held by the joint powers entity itself.

**History:** 2000 c 455 art 1 s 1

### **465.719 CORPORATIONS CREATED BEFORE MAY 31, 1997.**

Subdivision 1. **Definitions.** The following definitions apply to this section:

(a) "Political subdivision" means a county, a statutory or home rule charter city, a town, a school district, or other political subdivision of the state. Political subdivision includes a political subdivision acting individually or jointly as provided under section 471.59.

(b) "Corporation" means a corporation created by a political subdivision before May 31, 1997, in which (i) the corporation's articles of incorporation or bylaws provide for the governing body of the political subdivision to serve as a corporation's governing board; (ii) the articles of incorporation or bylaws provide for appointed officials of the political subdivision or members of the governing body of the political subdivision or both to be automatically appointed to the board solely by virtue of their appointment or election to office and they constitute a majority of the corporation's board members; or (iii) the governing body of the political subdivision approves the budget or expenditures of the corporation for purposes other than those related to oversight of public grants or loans made to the corporation under a competitive process for which other entities are eligible. Corporation does not include:

(1) a corporation established under chapters 453, 453A, or sections 245.62 to 245.66; 256E.30 to 256E.32;

(2) a nonprofit corporation created to raise funds for use by a political subdivision if less than a majority of the board of directors of the corporation are members of the governing body of the political subdivision appointed to the board of directors by virtue of their election to office; or

(3) a corporation created by a political subdivision pursuant to state statute or special law or federal law.

Subd. 2. **Resolution required.** In order to provide for the continued existence of a corporation created by a political subdivision, the political subdivision, or its successor, that created the corporation must adopt a resolution at a regularly scheduled meeting of the governing body of the political subdivision. The resolution must include the information required in subdivisions 4 to 9. A certified copy of the resolution must be filed with the secretary of state. If a resolution is not adopted within three years of August 1, 2000, the board of directors of the corporation shall direct and authorize an officer or designee of the corporation to file with the secretary of state immediately a notice of intent to dissolve the corporation and then as soon as possible, complete dissolution of the corporation as provided in the corporation's articles of incorporation and bylaws, and the law under which the corporation was formed.

Subd. 3. **Amended articles of incorporation, bylaws.** If the political subdivision adopts a resolution under subdivision 2, the board of directors of the corporation shall direct and authorize an officer or designee of the corporation to file amended articles of incorporation, if necessary, as soon as practicable after adoption of the resolution to make the articles of incorporation consistent with the resolution and to provide for the application of the laws under subdivision 9. Thereafter, the corporation may not amend its articles of incorporation unless the political subdivision adopts a resolution in support of the change as provided in subdivision 2 for ratifying existing corporations and a certified copy of the resolution is attached to the amended articles of incorporation filed with the secretary of state.

Subd. 4. **Existing contracts.** If on August 1, 2000, the corporation has contracts or other obligations that are inconsistent with any requirement of this section, the resolution may provide for the delayed application of that requirement for the time necessary to avoid a breach or impairment of the contract or obligation.

Subd. 5. **Need for corporation.** The resolution must make a detailed and specific finding regarding the purpose of the corporation, and why the corporation is the best alternative for accomplishing the purpose.

Subd. 6. **Authorities and powers of corporation limited.** The resolution must specify what authorities and powers the corporation possesses. The authorities and powers of the corporation must not exceed the authorities and powers of the political subdivision that created it, except as otherwise authorized in this section.

Subd. 7. **Board membership.** If a majority of the corporation's governing board includes elected or appointed officials of the political subdivision creating the corporation, the resolution must make a detailed and specific finding regarding the purpose of those officials serving on the board, and why the corporation cannot accomplish its purpose unless those officials serve on the board. Alternatively, the resolution may provide for other board membership and the articles of incorporation amended to be consistent with the resolution.

Subd. 8. **Allocation of assets and liabilities.** If the political subdivision that created the corporation is a joint powers board, the joint powers agreement and the resolution must specify how the assets and liabilities of the corporation are allocated or attributed to each member of the joint powers board, including, but not limited to, for the purposes of any applicable levy or debt limits. If a corporation is created by more than one political subdivision, each political subdivision that ratifies creation of the corporation must adopt a resolution required by this section and, among other requirements, each resolution must specify and agree with the resolution of the



other political subdivisions as to how the assets and liabilities of the corporation are allocated or attributed to each political subdivision, including, but not limited to, for the purposes of any applicable levy or debt limits.

**Subd. 9. Application of other laws.** A corporation created by a political subdivision under this section must comply with every law that applies to the political subdivision, as if the corporation is a part of the political subdivision, unless the resolution ratifying creation of the corporation specifically exempts the corporation from part or all of a law. If the resolution exempts the corporation from part or all of a law, the resolution must make a detailed and specific finding as to why the corporation cannot fulfill its purpose if the corporation is subject to that law. A corporation may not be exempted from chapter 13D, the Minnesota Open Meeting Law, sections 138.163 to 138.25, governing records management, or chapter 13, the Minnesota Government Data Practices Act. Any affected or interested person may bring an action in district court to void the resolution on the grounds that the findings are not sufficiently detailed and specific, or that the corporation can fulfill its purpose if it is subject to the law from which the resolution exempts the corporation. Laws that apply to a political subdivision that also apply to a corporation created by a political subdivision under this subdivision include, but are not limited to:

- (1) chapter 13D, the Minnesota Open Meeting Law;
- (2) chapter 13, the Minnesota Government Data Practices Act;
- (3) section 471.345, the Uniform Municipal Contracting Law;
- (4) sections 43A.17, limiting the compensation of employees based on the governor's salary; 471.991 to 471.999, providing for equitable pay; and 465.72 and 465.722, governing severance pay;
- (5) if the corporation issues debt, its debt is included in the political subdivision's debt limit if it would be included if issued by the political subdivision, and issuance of the debt is subject to the election and other requirements of chapter 475 and section 471.69;
- (6) section 471.895, prohibiting acceptance of gifts from interested parties, and sections 471.87 to 471.89, relating to interests in contracts;
- (7) chapter 466, relating to municipal tort liability;
- (8) chapter 118A, requiring deposit insurance or bond or pledged collateral for deposits;
- (9) chapter 118A, restricting investments;
- (10) section 471.346, requiring ownership of vehicles to be identified;
- (11) sections 471.38 to 471.41, requiring claims to be in writing, itemized, and approved by the governing board before payment can be made; and
- (12) the corporation cannot make advances of pay, make or guarantee loans to employees, or provide in-kind benefits unless authorized by law.

**Subd. 10. Three-year review of applicability of other laws.** At least every three years after adoption of a resolution that exempts a corporation from part or all of a law under subdivision 9, the political subdivision must review the activities of the corporation and whether the exemption should continue to apply to the corporation. The political subdivision must conduct the review at a regularly scheduled meeting of its governing body. The political subdivision must adopt a resolution to continue any exemption and a certified copy of the resolution must be filed with the secretary of state. The political subdivision cannot exempt the corporation from a law for the first time under the review process of this subdivision.

Subd. 11. **Taxes used for public purpose.** If the political subdivision has authority under other law to appropriate tax revenues for use by the corporation, those funds must be appropriated and used only for public purposes.

Subd. 12. **Audit.** A corporation created by a political subdivision that receives public money from the political subdivision, other than grants or loans made under a competitive process for which other entities are eligible, must be audited annually by either a certified public accountant or the state auditor. Except as provided below, the audit report must be presented at a regularly scheduled meeting of the governing body of the political subdivision that created the corporation. The audit report must be made available to individuals after presentation of the audit report to the governing body of the political subdivision. The data classification of an audit performed by the Office of the State Auditor is governed by chapter 6.

Subd. 13. **State auditor powers.** The state auditor has the same powers with regard to a corporation created by a political subdivision as the state auditor has with regard to the political subdivision that created the corporation.

Subd. 14. **Data classification.** The following data created, collected, or maintained by a corporation subject to this section are classified as private data under section 13.02, subdivision 12, or as nonpublic data under section 13.02, subdivision 9: (1) data relating either (i) to private businesses consisting of financial statements, credit reports, audits, business plans, income and expense projections, customer lists, balance sheets, income tax returns, and design, market, and feasibility studies not paid for with public funds, or (ii) to enterprises operated by the corporation that are in competition with entities offering similar goods and services, so long as the data are not generally known or readily ascertainable by proper means and disclosure of specific data would cause harm to the competitive position of the enterprise or private business, provided that the goods or services do not require a tax levy; and (2) any data identified in sections 13.201 and 13.72, subdivision 9, collected or received by a transit organization.

**History:** 1999 c 227 s 22; 2000 c 455 art 1 s 2; 2005 c 98 art 1 s 24; 2009 c 88 art 3 s 8

#### **465.72 SEVERANCE PAY.**

Subdivision 1. **Payment; limits.** Except as may otherwise be provided in Laws 1959, chapter 690, as amended, a county, city, township, school district or other governmental subdivision may pay severance pay to its employees and adopt rules for the payment of severance pay to an employee who leaves employment. Severance pay does not include compensation for accumulated sick leave or other payments in the form of periodic contributions by an employer toward premiums for group insurance policies for a former employee. The severance pay must be excluded from retirement deductions and from any calculations in retirement benefits. Severance pay must be paid in a manner mutually agreeable to the employee and employer over a period not to exceed five years from retirement or termination of employment. If a retired or terminated employee dies before all or a portion of the severance pay has been disbursed, that balance due must be paid to a named beneficiary or, lacking one, to the deceased's estate. Severance pay provided for an employee leaving employment may not exceed an amount equivalent to one year of pay.

Subd. 2. [Repealed, 1988 c 605 s 14]

**History:** 1973 c 123 art 5 s 7; 1973 c 298 s 1; 1979 c 334 art 6 s 24; 1980 c 614 s 151; 1Sp1981 c 4 art 2 s 37; 1986 c 455 s 91; 1988 c 605 s 10

**465.721 FUNDING.**

No county, city, township, or other governmental subdivision shall implement a plan for payment of severance pay pursuant to section 465.72 until a plan providing for full funding has been developed and approved by the governing body. This section does not apply to school districts.

**History:** 1980 c 600 s 9; 1984 c 463 art 7 s 21

**465.722 SEVERANCE PAY FOR HIGHLY COMPENSATED EMPLOYEES.**

Subdivision 1. **Definitions.** For the purposes of this section, the terms defined in this subdivision have the meanings given them.

(a) "Local unit of government" means a statutory or home rule charter city, county, town, school district, metropolitan or regional agency, or other political subdivision.

(b) "Wages" has the meaning provided by section 3401(a) of the Internal Revenue Code of 1986, as amended through December 31, 1992.

(c) "Highly compensated employee" means an employee of a local unit of government with estimated annual wages that:

(1) are greater than 60 percent of the governor's annual salary; and

(2) are equal to, or greater than, 80 percent of the estimated annual wages of the second highest paid employee of the local unit of government.

Subd. 2. **Limits on severance pay.** Notwithstanding any contrary provision of section 465.72, subdivision 1, severance pay for a highly compensated employee includes benefits or compensation with a quantifiable monetary value, that are provided for an employee upon termination of employment and are not part of the employee's annual wages and benefits and are not specifically excluded by this subdivision. Severance pay shall not include payments for accumulated vacation, accumulated sick leave, and accumulated sick leave liquidated to cover the cost of group term insurance provided under section 471.61 to retiring employees. Severance pay for a highly compensated employee does not include payments of periodic contributions by an employer toward premiums for group insurance policies. The severance pay for a highly compensated employee must be excluded from retirement deductions and from any calculations of retirement benefits. Severance pay for a highly compensated employee must be paid in a manner mutually agreeable to the employee and the governing body of the local unit of government over a period not to exceed five years from retirement or termination of employment. If a retired or terminated employee dies before all or a portion of the severance pay has been disbursed, the balance due must be paid to a named beneficiary or, lacking one, to the deceased's estate. Except as provided in subdivision 3, severance pay provided for a highly compensated employee leaving employment may not exceed an amount equivalent to six months of wages.

Subd. 3. **Exceptions to maximum allowable severance pay for a highly compensated employee.** Severance pay for a highly compensated employee may exceed an amount equivalent to six months of wages if:

(1) the severance pay benefit is included in an employment contract between the employee and the local unit of government that is in effect on August 1, 1993, and the termination of employment occurs before the expiration date of said contract;

(2) the severance pay is part of an early retirement incentive offer approved by the governing body of the local unit of government and the same early retirement incentive offer is

also made available to all other employees of the local unit of government who meet generally defined criteria relative to age or length of service;

(3) the governing body of a local unit of government adopts a resolution certifying that:

(i) the highly compensated employee was a full-time employee of the local unit of government for the entire period between January 1, 1983, and December 31, 1992;

(ii) the highly compensated employee was covered by one or more employment contracts or agreements which entitled the employee to specified severance pay benefits throughout the entire ten-year period specified in clause (i);

(iii) the employment contract or agreement in effect on December 31, 1992, will, at the time of the employee's separation from employment with the local unit of government, result in a severance payment that exceeds the limits specified in subdivision 2; and

(iv) the amount of severance pay that exceeds the limits specified in subdivision 2 was based on a commitment to provide the employee with a specified severance guarantee in lieu of a higher level of some other form of compensation; or

(4) the commissioner of management and budget has determined a position within a specific local unit of government requires special expertise necessitating a larger severance pay guarantee to attract or retain a qualified person. The commissioner shall develop a process for the governing body of a local unit of government to use when applying for an exemption under this clause. The commissioner shall review each proposed exemption giving due consideration to severance pay guarantees that are made to other persons with similar responsibilities in the state and nation.

Nothing in this subdivision shall be deemed to allow total severance payments for a highly compensated employee that exceed the limits established in section 465.72.

**Subd. 4. Governing body must approve certain payments; time for rescission.**

Notwithstanding section 13.43, subdivision 2, any payment to a highly compensated employee for settling disputed claims, whether or not the claims have been filed, or any payment to a highly compensated employee for terminating a written employment contract, must be approved by the governing body of the local unit of government during a public meeting. The financial terms of a payment made pursuant to this subdivision must be made public at the meeting. The effective date of the governing body's approval of a payment made pursuant to this subdivision shall be 15 days after the date of the public meeting. The governing body of a local unit of government approving a payment pursuant to this subdivision, or the employee to whom the payment is to be made, may rescind or reject the payment, prior to the effective date of the governing body's approval.

**History:** 1993 c 315 s 15; 2008 c 204 s 42; 2009 c 101 art 2 s 109

**465.73 LOAN FROM, SECURED BY U.S. AGRICULTURE DEPARTMENT AGENCY.**

For purposes of constructing, repairing, or acquiring city halls, town halls, fire halls or fire or rescue equipment, or libraries or child care facilities if otherwise authorized by law, a city, county, or town may borrow not to exceed \$450,000 from (i) funds granted to a rural electric cooperative organized under chapter 308A by the United States Department of Agriculture Rural Business-Cooperative Service or (ii) directly from or in the form of funds guaranteed by the Rural Housing Service or other agency of the United States Department of Agriculture by a note secured by a mortgage or other security agreement on the property purchased with the borrowed funds. The city, county, or town may pledge its full faith and credit and assign or pledge the revenues, if any, from the facilities or equipment so financed together with any other properly available funds

to secure the loan. The obligation of the note is not to be included when computing the net debt of the city, county, or town, nor is the approval of the voters required for the issuance of the note.

**History:** 1976 c 140 s 1; 1977 c 210 s 1; 1978 c 476 s 1; 1Sp1989 c 1 art 5 s 34; 1991 c 120 s 1; 1995 c 256 s 6; 2002 c 390 s 5

#### **465.74 AUTHORIZATION TO OPERATE DISTRICT HEATING SYSTEMS.**

Subdivision 1. **Cities of the first class.** Any city operating or authorized to operate a public utility pursuant to chapter 452 or its charter is authorized to acquire, construct, own, and operate a municipal district heating system pursuant to the provisions of that chapter or its charter. Acquisition or construction of a municipal district heating system shall not be subject to the election requirement of sections 452.11 and 452.12, or city charter provision, but must be approved by a three-fifths vote of the city's council or other governing body. Loans obtained by a municipality pursuant to Minnesota Statutes 1992, section 216C.36, are not subject to the limitations on the amount of money which may be borrowed upon a pledge of the city's full faith and credit or the election requirements for general obligation borrowing, contained in section 452.08.

Subd. 1a. **Cities with over 50,000 inhabitants.** A city with over 50,000 inhabitants that is not a city of the first class is authorized to acquire, construct, improve, and operate a district heating system under the same terms and conditions as a city of the first class except as provided herein. Acquisition or construction and financing of a municipal district heating system is not subject to the election requirements of sections 452.11 and 452.12, however, a resolution for the acquisition or construction and financing must be approved by a two-thirds vote of the governing body of the city.

Subd. 2. **Cities of the second, third, and fourth class.** A home rule or statutory city of the second, third, or fourth class may, pursuant to sections 412.331 to 412.391, or chapter 455 or its charter acquire, construct, own, and operate a municipal district heating system.

Subd. 3. **Extension of service outside city.** A municipal district heating system, operating pursuant to this section, may sell energy to customers located outside of the municipality.

Subd. 4. **Net debt limits.** The loan obligations or debt incurred by a political subdivision pursuant to section 475.525, or Minnesota Statutes 1992, section 216C.36, shall not be considered as a part of its indebtedness under the provisions of its governing charter or of any law of this state fixing a limit of indebtedness.

Subd. 5. **District heating facilities.** Notwithstanding any other law, general or special, or the provisions of any home rule charter city to the contrary, the governing body of a municipality may by ordinance grant a district heating franchise for a term not to exceed 31 years and by resolution or ordinance secure any obligations issued by the municipality for a district heating system with a mortgage or indenture of trust coextensive with the term of the obligations.

Subd. 6. **Definition.** For the purposes of this section, and chapters 474 and 475, "district heating system" means any existing or proposed facility for (1) the production, through cogeneration or otherwise, of hot water or steam to be used for district heating, or (2) the transmission and distribution of hot water or steam for district heating either directly to heating consumers or to another facility or facilities for transmission and distribution, or (3) any part or combination of the foregoing facilities.

In keeping with the public purpose to encourage state and local leadership and aid in providing available and economical district heating service, the definition of "district heating

system" under this section should be broadly construed to allow municipal government sufficient flexibility and authority to evaluate and undertake such policies and projects as will most efficiently and economically encourage local expansion of district heating service.

**Subd. 7. Port authorities, ownership and operation of district heating systems.** A port authority organized pursuant to sections 469.048 to 469.068 or a special law may acquire, own, construct, and operate a district heating system or systems to provide heating and cooling services and other energy services within the statutory or home rule charter city within which it is created. The authority may, in conjunction with a district heating system, acquire, own, construct, and operate an energy management and control system to monitor and control users' energy demand within the city as a related ancillary function of the district heating system. The authority may, in conjunction with a district heating system, acquire, own, construct, and operate ancillary services related to an energy management and control system including, but not limited to, sensing and monitoring services for supervision of fire and life safety systems and building security systems within the city.

This section shall be effective for a port authority only after adoption of an ordinance or resolution by the board of the port authority and by the governing body of the city stating their intention to exercise the authority allowed by this section.

A port authority may, with approval of the city, lease part or all of the district heating system or contract with respect to part or all of the district heating system, with any person, corporation, association, or public utility company for the purpose of constructing, improving, operating, or maintaining the district heating system.

**Subd. 8. Management of a district heating system by a port authority.** A statutory or home rule charter city within which a port authority has been created may delegate to the port authority some or all powers and responsibilities for the management and operation of a district heating system.

**Subd. 9. Operation by a county.** A statutory or home rule charter city may contract with a county to operate a district heating system for the provision of district heating services within some or all of the city.

**Subd. 10. Facility relocation costs.** Notwithstanding any contrary provisions in section 237.163, and rules adopted under that section, public right-of-way users under Minnesota Rules, chapter 7819, including, but not limited to, district heating and district cooling nonprofit corporations organized under chapter 317A that are exempt organizations under section 501(c)(3) of the United States Internal Revenue Code, are eligible to receive grants and federal money for costs of relocating facilities from public rights-of-way to prevent interference with public light rail projects, unless eligibility would impact the project's Federal Transit Authority required cost-effectiveness index.

**History:** 1981 c 334 s 6; 1981 c 356 s 248; 1982 c 561 s 12; 1984 c 449 s 1-4; 1987 c 291 s 224; 1987 c 312 art 1 s 10 subd 1; 1993 c 327 s 19-21; 2008 c 350 art 1 s 83

**465.75** MS 2010 [Renumbered 168B.14]

**465.76 MAY PAY FOR OFFICER OR EMPLOYEE'S CRIMINAL DEFENSE.**

**Subdivision 1. If lawfully doing duty.** If reimbursement is requested by the officer or employee, the governing body of a home rule charter or statutory city, a town or a county may, after consultation with its legal counsel, reimburse the city, town or county officer or employee

for any costs and reasonable attorney's fees incurred by the person to defend charges of a criminal nature brought against the person that arose out of the reasonable and lawful performance of duties for the city, town or county.

Subd. 2. **When judge must approve.** If less than a quorum of the governing body is disinterested, the reimbursement under subdivision 1 shall be approved by a judge of the district court.

**History:** 1984 c 650 s 1; 1999 c 30 s 1

#### **465.77 MAY REGULATE DRILLING OF MINED UNDERGROUND SPACE.**

A home rule charter city or statutory city may regulate drilling for the purposes and in the manner provided in section 469.141.

**History:** 1985 c 194 s 25; 1987 c 291 s 225

#### **465.78 PARTICIPATE IN ECONOMIC DEVELOPMENT SECONDARY MARKET.**

(a) A municipality may sell at private or public sale, at the price or prices determined by the municipality, any note, mortgage, lease, sublease, lease purchase, or other instrument or obligation evidencing or securing a loan made for the purpose of economic development, job creation, redevelopment, or community revitalization to a business, for-profit or nonprofit organization, or an individual.

(b) Sales under this section must be made through arrangements whereby the ultimate sale of the instrument is to be made as part of a pool of instruments on behalf of one or more other municipalities, port authorities, housing and redevelopment authorities, or rural development finance authorities (other than a port authority or housing and redevelopment authority located wholly or partly within the municipality). The restrictions of the previous sentence do not apply if the sale is a public sale or if the proposed sale is submitted to and approved by the commissioner of commerce. The commissioner shall review the proposed sale to determine if the agreed-upon price adequately compensates the municipality, given the maturity, risk, and yield of the instrument. If a proposed sale is submitted to the commissioner of commerce and the sale is not disapproved in writing by the commissioner within 30 days, the sale is deemed approved. The restrictions contained in this paragraph apply to sales made under sections 469.059, subdivision 17; 469.101, subdivision 22; and 469.146, subdivision 3.

(c) This section does not apply to an obligation to make payments to the municipality, if the underlying obligation arose out of a transaction in which the proceeds of the loan were financed by revenues derived from tax increments from a tax increment financing district that includes property owned by the borrower. For the purpose of this section, a "municipality" is any home rule charter city, statutory city, county, or town.

**History:** 1989 c 317 s 1

#### **465.79 ESTABLISHMENT OF BOUNDARY COMMISSION.**

Subdivision 1. **City council, town or county board.** By resolution, the city council of a statutory or home rule charter city, town board, or county board may create a boundary commission. Members of the commission shall be residents of the county or counties in which the city or town is located who are familiar with real property.

Subd. 2. **Duties of boundary commission.** Upon initiation by resolution of the governing body or upon petition of an adjoining or affected property owner, the boundary commission shall

review property descriptions of the disputed areas in the respective jurisdiction. Upon mailed notice to all known parties in interest, the commission shall attempt to establish agreements between adjoining landowners as to the location of common boundaries as delineated by a certified land survey. If agreement cannot be reached, the commission shall make a recommendation as to the location of the common boundaries within the disputed area. The commission shall prepare a plan designating all agreed and recommended boundary lines and report to the city council, town board, or county board.

Subd. 3. **Hearing.** Upon receipt of the plan and a report from the commission, the city council, town board, or county board shall hold a public hearing. The council, town board, or county board shall give mailed notice to all known parties in interest and published notice 20 days prior to the hearing. The council, town board, or county board shall hear all interested parties and may make adjustments to the proposed plan that it deems just and necessary.

Subd. 4. **Judicial review.** Following the public hearing, the council or board may petition the district court for judicial approval of the proposed plan. If any affected parcel is land registered under chapter 508, the petition must be referred to the examiner of titles for a report. The council or board shall provide sufficient information to identify all parties in interest and shall give notice to parties in interest as the court may order. The court shall determine the location of any contested, disputed, or unagreed boundary and shall determine adverse claims to each parcel as provided in chapter 559. After hearing and determining all disputes, the court shall issue its judgment in the form of a plat complying with chapter 505 and an order designating the owners and encumbrancers of each lot. Real property taxes need not be paid or current as a condition of filing the plat, notwithstanding the requirements of section 505.04.

Subd. 5. **Special assessments.** The city or board may assess part or all of the cost incurred by it against the benefited properties on a per parcel basis as provided in chapter 429.

**History:** 1990 c 386 s 1; 1992 c 493 s 9,10; 1997 c 78 s 1

**465.795** [Repealed, 2002 c 220 art 10 s 40]

**465.796** [Repealed, 2002 c 220 art 10 s 40]

**465.797** [Repealed, 2002 c 220 art 10 s 40]

**465.7971** [Repealed, 2002 c 220 art 10 s 40]

**465.798** [Repealed, 2002 c 220 art 10 s 40]

**465.799** [Repealed, 2002 c 220 art 10 s 40]

#### **SERVICE SHARING AND COMBINATION INCENTIVES**

**465.80** [Repealed, 1994 c 587 art 8 s 13]

**465.801** [Repealed, 2002 c 220 art 10 s 40]

**465.802** [Repealed, 2002 c 220 art 10 s 40]

**465.803** [Repealed, 2002 c 220 art 10 s 40]



**465.81 COOPERATION AND COMBINATION.**

Subdivision 1. **Scope.** Sections 465.81 to 465.86 establish procedures to be used by counties, cities, or towns that adopt by resolution an agreement providing a plan to provide combined services during an initial cooperation period that may not exceed two years and then:

- (1) to merge into a single unit of government over the succeeding two-year period; or
- (2) to agree to apportion the entire area of at least one local government unit between or among two or more local government units contiguous to the unit to be apportioned, resulting in the elimination of at least one local government unit over the succeeding two years.

Subd. 2. **Definitions.** As used in sections 465.81 to 465.86, the words defined in this subdivision have the meanings given them in this subdivision.

"City" means home rule charter or statutory cities.

"Governing body" means, in the case of a county, the county board; in the case of a city, the city council; and, in the case of a town, the town board.

"Local government unit" or "unit" includes counties, cities, and towns.

Subd. 3. **Combination requirements.** Counties may combine with one or more other counties. Cities may combine with one or more other cities or with one or more towns. Towns may combine with one or more other towns or with one or more cities. Units that combine must be contiguous. A county, through the adoption of a resolution by all county boards that are affected by the combination, may apportion its territory between or among two or more counties contiguous to the county that is to be apportioned. A city, through the adoption of a resolution by all city councils that are affected by the combination, may apportion its territory between or among two or more cities contiguous to the city that is to be apportioned. A township, through the adoption of a resolution by all town boards or city councils that are affected by the combination, may apportion its territory between or among two or more townships or cities contiguous to the township that is to be apportioned.

**History:** 1991 c 291 art 14 s 2; 1993 c 375 art 15 s 10; 1995 c 264 art 8 s 7; 1997 c 231 art 2 s 34,35; 2003 c 2 art 6 s 1,2

**465.82 COOPERATION AND COMBINATION PLAN.**

Subdivision 1. **Adoption and state agency review.** Each governing body that proposes to take part in a combination under sections 465.81 to 465.86 must by resolution adopt a plan for cooperation and combination. The plan must address each item in this section. The plan must be specific for any item that will occur within three years and may be general or set forth alternative proposals for an item that will occur more than three years in the future. For a metropolitan area local government unit, the plan must be submitted to the Metropolitan Council for review and comment. The council may point out any resources or technical assistance it may be able to provide a governing body submitting a plan under this subdivision. Significant modifications and specific resolutions of items must be submitted to the council, if appropriate, for review and comment. In the official newspaper of each local government unit proposing to take part in the combination, the governing body shall publish at least a summary of the adopted plans, each significant modification and resolution of items, and, if appropriate, the results of each council review and comment. If a territory of a unit is to be apportioned between or among two or more units contiguous to the unit that is to be apportioned, the plan must specify the area that will become a part of each remaining unit.

Subd. 2. **Contents of plan.** The plan must state:

(1) the specific cooperative activities the units will engage in during the first two years of the venture;

(2) the steps to be taken to effect the merger of the governmental units, with completion no later than four years after the process begins;

(3) the steps by which a single governing body will be created or, when the entire territory of a unit will be apportioned between or among two or more units contiguous to the unit that is to be apportioned, the steps to be taken by the governing bodies of the remaining units to provide for representation of the residents of the apportioned unit;

(4) changes in services provided, facilities used, and administrative operations and staffing required to effect the preliminary cooperative activities and the final merger, and a two-, five-, and ten-year projection of expenditures for each unit if it combined and if it remained separate;

(5) treatment of employees of the merging governmental units, specifically including provisions for reassigning employees, dealing with exclusive representatives, and providing financial incentives to encourage early retirements;

(6) financial arrangements for the merger, specifically including responsibility for debt service on outstanding obligations of the merging units;

(7) one- and two-year impact analyses, prepared by the granting state agency at the request of the local government unit, of major state aid revenues received for each unit if it combined and if it remained separate, including an impact analysis, prepared by the Department of Revenue, of any property tax revenue implications associated with tax increment financing districts and fiscal disparities under chapter 276A or 473F resulting from the merger;

(8) procedures for a referendum to be held before the proposed combination to approve combining the local government units, specifically stating whether a majority of those voting in each district proposed for combination or a majority of those voting on the question in the entire area proposed for combination is needed to pass the referendum; and

(9) a time schedule for implementation.

Notwithstanding clause (3) or any other law to the contrary, all current members of the governing bodies of the local government units that propose to combine under sections 465.81 to 465.86 may serve on the initial governing body of the combined unit until a gradual reduction in membership is achieved by foregoing election of new members when terms expire until the number permitted by other law is reached.

Subd. 3. **Interim governing body.** The plan for cooperation and combination adopted in accordance with subdivision 1 may establish an interim governing body to act on behalf of the new local government unit before the effective date of the combination. If established, the interim governing body must consist of at least a majority of the elected officials from each local government unit taking part in the combination. If the plan establishes an interim governing body, the governing body of each unit taking part in the combination shall appoint its representatives to serve on the interim governing body. An interim governing body may not take any official action on behalf of the new local government unit before approval of the combination through the referendum required by section 465.84. After approval of the combination through the referendum, and before the effective date of the combination, an interim governing body may exercise all statutory authority of the governing body of the new local government unit, including the authority to enter into contracts and adopt policies and local ordinances.

Subd. 4. **Differential taxation.** The plan for cooperation and combination adopted in accordance with subdivision 1 may establish that the tax rate of the local government unit with the lesser tax rate prior to the effective date of combination shall be increased in substantially equal proportions over not more than six years to equality with the tax rate on the property already within the borders of the local unit of government with the higher tax rate. The appropriate period of time, if any, for transition to the higher tax rate shall be based on the time reasonably required to effectively provide equal municipal services to the residents of the local unit of government with the lower tax rate.

**History:** 1991 c 291 art 14 s 3; 1993 c 375 art 15 s 11; 1995 c 264 art 8 s 8; 1996 c 471 art 11 s 13; 1997 c 231 art 2 s 36-38; 1999 c 243 art 6 s 7; 2003 c 2 art 6 s 3,4

**465.83** [Repealed, 2002 c 220 art 10 s 40]

#### **465.84 REFERENDUM.**

During the first or second year of cooperation, a referendum on the question of combination must be conducted. The referendum must be on a date called by the governing bodies of the units that propose to combine. The referendum must be conducted according to the Minnesota Election Law, as defined in section 200.01. If the referendum fails, the same question or a modified question may be submitted the following year. If the referendum fails again, the same question may not be submitted. Referendums shall be conducted on the same date in all local government units.

**History:** 1991 c 291 art 14 s 5; 1995 c 264 art 8 s 9; 2003 c 2 art 6 s 5

#### **465.85 COUNTY AUDITOR TO PREPARE PLAT.**

Upon the request of two or more local government units that have adopted a resolution to cooperate and combine, the county auditor shall prepare a plat. If the proposed combined local government unit is located in more than one county, the request must be submitted to the county auditor of the county that has the greatest land area in the proposed district. The plat must show:

- (1) the boundaries of each of the present units;
- (2) the boundaries of the proposed unit;
- (3) the boundaries of proposed election districts, if requested; and
- (4) other information deemed pertinent by the governing bodies or the county auditor.

**History:** 1991 c 291 art 14 s 6; 1995 c 264 art 8 s 10

#### **465.86 BONDED DEBT AT THE TIME OF COMBINATION.**

Debt service for bonds outstanding at the time of the combination may be levied by the combined governing body consistent with the plan adopted according to section 465.82, and any subsequent modifications, subject to section 475.61. The primary obligation to pay the bonded indebtedness outstanding on the effective date of combination remains with the local government unit that issued the bonds, but a combined unit may make debt service payments on behalf of a preexisting unit.

**History:** 1991 c 291 art 14 s 7

**465.87** [Repealed, 2002 c 220 art 10 s 40]

**465.88** [Repealed, 2002 c 220 art 10 s 40]

**FIREFIGHTER SOLICITATION FOR CHARITY****465.90 MUNICIPAL AUTHORITY TO PERMIT SOLICITATION BY FIREFIGHTERS.**

Notwithstanding any law or ordinance to the contrary, a municipality may by resolution permit full-time permanent firefighters employed by the municipality while on duty, or volunteer firefighters serving the municipality while not on duty, to solicit charitable contributions from motorists if the following conditions are met:

(1) the solicitation is for only one charitable organization annually, and that charitable organization is qualified under section 501(c)(3) of the Internal Revenue Code and is registered as a charity under state law;

(2) the solicitation does not occur for more than three days, whether or not consecutively, in any calendar year; and

(3) the charitable organization provides to the municipality proof of commercial general liability insurance against claims for bodily injury and property damage if the injury or damage occurs (i) on public streets, roads, or rights-of-way, or (ii) as a result of the solicitor's activities. The insurance must have a limit of no less than \$1,500,000 per occurrence and an endorsement to the policy naming the municipality as an additional insured.

**History:** 2010 c 227 s 1