

## CHAPTER 305—H. F. No. 1710

[Not Coded]

*An act relating to the city of Duluth; creating an arena-auditorium administrative board therefor; providing for the appointment of directors thereof; and conferring upon such board the power and duty to contract for and superintend the erection, construction, equipping and furnishing of such arena-auditorium, to administer, promote, control, direct, manage, and operate such arena-auditorium; superseding the provisions of Minnesota Statutes 1961, Section 197.45 to 197.47, inclusive.*

Be it enacted by the Legislature of the State of Minnesota:

Section 1. **Duluth, city of; arena-auditorium.** There is hereby created an arena-auditorium administrative board for the city of Duluth, hereinafter referred to as the board, which shall consist of seven directors, who shall be appointed to membership on such board, and who shall have and exercise the powers, perform the duties, and be subject to the obligations, as hereinafter set forth in this act.

Sec. 2. The board created under this act shall consist of seven directors, who shall serve without compensation but who may be reimbursed for authorized out-of-pocket expenses incurred in the fulfillment of their duties. The original term of three of the directors shall be for one year; the original term of two of the directors shall be for two years; and the original term of two of the directors shall be for three years, and until their respective successors are appointed and qualified. Subsequent terms of directors shall be for three years. All terms shall expire on June 30 of the appropriate year. Whenever a vacancy on such board shall occur by reason of resignation, death, removal from the city, or removal for failure or neglect to perform duties of a director, such vacancy shall be filled for the unexpired term. All appointments and removal of directors of the board shall be made by the mayor, with the approval of the city council, evidenced by resolution. Every appointee who shall fail, within ten days after notification of his appointment, to file with the city clerk his oath or affirmation to perform faithfully, honestly, and impartially the duties of his office, shall be deemed to have refused such appointment, and thereupon another person shall be appointed in the manner prescribed in this section.

Sec. 3. Subdivision 1. Within 30 days after the members of the board shall have qualified for office, the board shall meet and organize, and adopt and thereafter may amend such rules and regulations for the conduct of the board as the board shall deem

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to be in the public interest and most likely to advance, enhance, foster, and promote the use of such arena-auditorium and its facilities for activities, conventions, events, and athletic and cultural productions. Such rules and regulations shall at all times be in harmony with this act.

Subd. 2. Such directors shall elect from among their number a president and a vice-president, and shall also elect a secretary who may or may not be a member of such board. No two of such offices may be held by one director. The officers shall have the duties and powers usually attendant upon such officers, and such other duties and powers not inconsistent herewith as may be provided by the board.

Sec. 4. Subdivision 1. The city treasurer of the city of Duluth shall be the treasurer of the board. The treasurer shall receive and have the custody of all moneys of the board from whatever source derived, and the same shall be deemed public funds. The treasurer shall disburse such funds only upon written orders drawn against such funds, signed by the manager and approved by the president, or in his absence, the vice-president of such board; and each order shall state the name of the payee and the nature of the claim for which the same is issued. The treasurer shall keep an account of all monies coming into his hands, showing the source of all receipts and the nature, purpose, and authority of all disbursements, and at least four times each year, at times and in a form to be determined by the city council, the board shall file with the city clerk a financial statement of the board, showing all receipts and disbursements, the nature of the same, the moneys on hand, and the purposes for which the same are applicable, the credits and assets of the board, and its outstanding liabilities.

Subd. 2. The board has the exclusive power to receive, control, and order the expenditure of any and all moneys and funds pertaining to the arena-auditorium operations.

Subd. 3. There are hereby created in the treasury of the city of Duluth a special arena-auditorium fund, hereinafter referred to as the special fund, and an arena-auditorium operating fund, hereinafter referred to as the operating fund. The moneys in the special fund shall be used solely for the acquisition and preparation of a site, and for the planning, construction, and equipping of the arena-auditorium. The special fund shall consist of:

(1) All moneys derived from the sale of bonds by the city to provide funds for the acquisition and preparation of a site, and for the planning, construction, and equipping of an arena-auditorium.

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(2) All moneys appropriated or made available to the city of Duluth for the acquisition and preparation of a site, and for the planning, construction, and equipping of the arena-auditorium.

(3) The proceeds of all financial aid or assistance by the city or state governments for the acquisition and preparation of a site, and for the planning, construction, and equipping of the arena-auditorium.

(4) All moneys received from the United States of America to aid in the acquisition and preparation of a site, and for the planning, construction, and equipping of the arena-auditorium.

(5) All moneys received as gifts or contributions to the acquisition and preparation of a site, and for the planning, construction, and equipping of the arena-auditorium.

The operating fund shall be used for maintenance, promotion, operation, or betterment of the arena-auditorium, and for expenses of the board. The operating fund shall consist of all moneys of the board derived from any source other than moneys credited to the special fund as hereinabove provided.

Subd. 4. At least once in each year the city auditor shall make, or cause to be made, at the expense of the board, a complete examination and audit of all books and accounts of the aforesaid board; and for such purpose the city auditor shall have the authority and power to inspect and examine such books and accounts at any time during regular business hours and such intervals as he may determine. One copy of such yearly audit shall be filed by the city auditor with the city clerk as a public document.

Sec. 5. Subdivision 1. Wherever the word "arena-auditorium" are used in this act, such words shall mean and include the municipal arena-auditorium cultural and convention center complex of the city of Duluth, including the land upon which it stands and land appurtenant thereto.

Subd. 2. Notwithstanding anything to the contrary contained in any law, or in the charter of the city of Duluth, or in any ordinance thereof, passed by the city council, or approved by the electors of the city, there is hereby conferred upon such board the power and duty to contract for and superintend the erection, construction, equipping and furnishing of such arena-auditorium, and to administer, promote, control, direct, manage, and operate such arena-auditorium as a municipal facility.

Sec. 6. The manager and other employees are subject to

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and included in the provisions of Minnesota Statutes 1961, Chapter 353, relating to the public employees retirement association.

Sec. 7. Subdivision 1. No motor vehicle, either privately or publicly owned, may be parked upon any parking lot or facility operated by the board except as authorized by this section. The operation and supervision of all such parking lots and facilities are vested in the board. It may fix and collect rents, charges, or fees in connection with and for the use of any parking lot or facility operated by the board.

Subd. 2. **Rules and regulations.** The board may adopt and enforce rules and regulations governing the parking of motor vehicles upon any such parking lot or facility so operated by it. Such rules and regulations shall be approved as to form and validity by the city attorney, shall be published once in the official newspaper of the city, and a certified copy of such publication filed with the city clerk, and thereupon such rules and regulations shall have the force of law.

Subd. 3. **Removal and impounding of vehicles.** Any motor vehicle parked upon any parking lot or facility operated by the board not in conformity with the rules and regulations of the board governing the operation and use thereof shall be deemed a public nuisance and the board shall provide for the abatement of such nuisance by rules and regulations, including provision for the removal and impounding of such motor vehicle. The cost of such removal and impounding shall be a lien against the motor vehicle until paid.

Subd. 4. **Violations.** Any person, city official, elective or appointed, firm, association, or corporation which violates any of the provisions of this section or any rule or regulation made by the board hereunder is guilty of a misdemeanor and upon conviction thereof shall be punished in the manner provided by law.

Subd. 5. **Moneys collected.** All moneys collected by the board as rents, charges, or fees in connection with and for the use of any parking lot or facility shall be deposited in the arena-auditorium operating fund.

Sec. 8. The board shall have the power:

To adopt and alter all bylaws and rules and regulations which it shall from time to time deem best for the conduct of the business of the board, and for the use of the facilities of the board, and for the purposes of carrying out the objects of this act; but such bylaws,

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rules, and regulations shall not be in conflict with the terms of this act.

To appoint and remove a manager and such other employees as the board may deem necessary, who shall not be within the *civil service classifications of the city*, and to *prescribe the duties and fix the compensation and other benefits of such manager and employees*, without regard to any provision contained in the charter or any ordinance of the city relating to civil service, or to any provision contained in Minnesota Statutes 1961, Sections 197.45 to 197.47, inclusive.

To *procure and provide for a policy or policies of insurance* for the defense and indemnification of the city of Duluth, its officers and employees, and directors, manager, and employees of the board, against claims arising against them out of the performance of duty, whether such claims be groundless, or otherwise. Premiums for any policies of insurance required by this act shall be paid for out of the funds of the arena-auditorium administrative board.

To implement and carry out the provisions of section 7 of this act.

To utilize the services and facilities of the city so far as the same are offered by appropriate city officials and accepted by the board, and to pay the city for all charges and costs for such services.

To operate and maintain and to lease from others all facilities necessary or convenient in connection with the arena-auditorium and to contract for the operation and maintenance of any parts thereof or for services to be performed; to lease the whole or parts thereof, and grant concessions, all on such terms and conditions as the board may determine.

To authorize and direct the city treasurer to invest, in the manner provided by law, any funds held in reserve, or sinking funds, or any funds not required for immediate disbursement.

To fix, alter, charge, and collect rates, fees, and all other charges to be made for all services or facilities furnished by the board for the use of the arena-auditorium facilities by any persons or public or private agencies utilizing such services or facilities.

To make and execute contracts, agreements, instruments, and other arrangements necessary or convenient to the exercise of its powers.

Sec. 9. The manager of the arena-auditorium shall be responsible for the custody and control of all moneys received and col-

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lected from the daily operations of the arena-auditorium until such moneys are delivered to the city treasurer and he shall have obtained a receipt therefor, or until such moneys are deposited in a bank account under control of the city treasurer.

The manager shall give bond in favor of the city of Duluth in a sum equal to twice the amount of money which will probably be in his hands at any time during any one year, that amount to be determined at least annually by the board; such bond to be conditioned upon the faithful discharge of his official duties, and be approved as to form, correctness, and validity by the city attorney, and filed with the city auditor; such bond, however, shall not exceed \$300,000. Premiums for such bonds shall be paid out of funds of the board.

Sec. 10. The board shall regulate the making of bids and the letting of contracts through procedure established by the board, subject to the following conditions:

(a) In all cases of work to be done by contract or the purchase of property of any kind, or the rendering of any service to the board other than professional services, competitive bids shall be secured before any purchase is made or any contract awarded where the amount involved exceeds the sum of \$2,000.

(b) All bids shall be sealed when received, shall be opened in public at the hour stated in the notice; and all original bids, together with all documents pertaining to the award of the contract, shall be retained and made a part of the permanent file or record, and shall be open to public inspection.

(c) Purchases of \$2,000 or less may, through procedure established by the board, be delegated to the auditorium manager. Contracts involving more than \$2,000 shall be awarded only after authorization by the board.

(d) The board may reject, or through procedure established by the board, authorize the auditorium manager to reject, any and all bids.

(e) Contract shall be let to the lowest responsible bidder, and purchases shall be made from the responsible bidder who offers to furnish the article desired for the lowest sum.

(f) In determining the lowest responsible bidder, in addition to price, the following may be considered:

(1) The ability, capacity, and skill of the bidder to perform the contract or provide the service required.

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(2) Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference.

(3) The character, integrity, reputation, judgment, experience and efficiency of the bidder.

(4) The quality of performance of previous contracts or services.

(5) The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service.

(6) The quality, availability, and adaptability of the supplies or contractual service to the particular use required.

(7) The ability of the bidder to provide future maintenance and service for the use of the subject of the contract.

(8) The number and scope of conditions attached to the bid.

(g) Specifications shall not be so prepared as to exclude all but one type or kind, but shall include competitive supplies and equipment; provided, however, that unique or noncompetitive articles which are determined by the board to be sufficiently superior for the service intended by the board, may be purchased without regard to other bids.

Sec. 11. The arena-auditorium board shall not exercise the powers of eminent domain, but the city may acquire lands for the arena-auditorium by exercise of the power of eminent domain at the request and expense of the board. The arena-auditorium board shall not have the power to raise any moneys by taxation in any form whatsoever, nor to levy assessments for local improvements, nor have the power to pledge the full faith and credit of the city.

Sec. 12. This act shall become effective only after its approval by a majority of the governing body of the city of Duluth and upon compliance with the provisions of Minnesota Statutes, Section 645.021.

Approved April 22, 1963.

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