

levied shall be transmitted to the auditor of the county in which the city is located at the time all other tax levies are transmitted, and shall be collected and the payment thereof enforced in the same manner as other tax levies. If the governing body of the city fails to include the required tax in its levy for any year, the board of trustees of the association may certify that fact to the county auditor, who shall add the omitted levy to the city levy for that year or, if then too late, then for the following year. The city treasurer, when the tax is received by him, shall pay the same over to the treasurer of the association. For purposes of this section, the normal support rate and amount required to amortize the deficit shall be determined in the manner described by Minnesota Statutes, Section 69.73.

Sec. 3. This act is effective upon its approval by the governing body of the city of Alexandria and compliance with Minnesota Statutes, Section 645.021.

Approved May 24, 1969.

CHAPTER 720—H. F. No. 2374

[Not Coded]

An act relating to the city of Duluth; authorizing the organization of a Duluth transit authority; providing for the appointment of directors thereto, and for the financing of the operations of said authority, and the establishment or acquisition of a bus transportation system for said city; conferring upon said authority the power and duty to administer, promote, control, direct, manage, and operate a bus transportation system; providing a tax levy and authorizing the issuance of bonds.

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

Section 1. **Duluth, city of; transit authority act.** There is hereby created a Duluth transit authority for the city of Duluth, hereinafter referred to as the authority, which shall consist of five directors, who shall be appointed to membership on such authority, and who shall have and exercise the powers, perform the duties, and be subject to the obligations hereinafter set forth in this act. Each of the five councilmanic districts within the city shall be represented at all times on the authority, and the director representing such district shall be a resident thereof.

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Sec. 2. The directors shall serve without compensation, and may be reimbursed for authorized out of pocket expenses incurred in the fulfillment of their duties. The original term of one 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 authority shall occur by reason of resignation, death, removal from the city or the councilmanic district, or removal for failure or neglect to perform duties of a director, such vacancy shall be filled for the unexpired term. All appointments and removals of directors of the authority 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 20 days after the members of the authority shall have qualified for office, the authority shall meet and organize, and adopt, and thereafter may amend such rules and regulations for the conduct of the authority as the authority shall deem to be in the public interest and most likely to advance, enhance, foster, and promote the establishment of a public transportation system for the Duluth area, as hereinafter provided for in this act. Such rules and regulations shall at all times be in harmony with this act.

Subd. 2. Such directors shall elect from among their members a president and a vice-president, and shall also elect a secretary, who may or may not be a member of said authority. 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 authority.

Sec. 4. Subdivision 1. The city treasurer of the city of Duluth shall be the treasurer of the authority. The treasurer shall receive and have the custody of all moneys of the authority from whatever source derived, and the same shall be deemed public funds. The treasurer shall disburse such funds only in accordance with the annual budget of the authority as approved by the city council at the time the annual city budget is adopted and only upon written orders drawn against such funds, signed by the executive director, as hereinafter provided for in this act, or the president, or in his absence, the vice-

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president of the authority; 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 moneys coming into his possession, showing the source of all receipts, and the nature, purpose and authority of all disbursements; and at least three times each year, at the times and in the form to be determined by the directors, the authority shall file with the city clerk a financial statement of the authority, 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 authority, and its outstanding liabilities.

Subd. 2. Within the total budget approved by the city council as provided in subdivision 1, the authority has the exclusive power to receive, control, and order the expenditure of any and all moneys and funds in the control and management of the Duluth bus transportation system; as hereinafer provided for in this act.

Subd. 3. Notwithstanding anything to the contrary contained in any law or in the charter of the city of Duluth or in any ordinance thereof, there is hereby created in the treasury of the city of Duluth a special municipal bus transportation fund, hereinafter referred to as the special fund; and a Duluth bus transportation operating fund, hereinafter referred to as the operating fund. The moneys in the special fund shall be used solely for the establishment or acquisition of a bus transportation system for the city of Duluth, and for the equipping of said system. Of the proceeds from the issuance and sale of the obligation bonds hereinafter provided for, the authority may use a sum not to exceed \$200,000 for initial operating expenses after acquisition of said system; and in addition, may use from the proceeds of said bond issue a sum sufficient to reimburse the general fund of the city for all costs or expenses that may have been incurred by the city in an effort to acquire a transit system prior to the actual acquisition of any such bus transit system. The special fund shall consist of:

(1) All moneys derived from the issuance and sale of bonds by authority of the city council to provide funds for the establishment or creation of a bus transportation system, and for the equipping thereof;

(2) All moneys appropriated or otherwise made available to the city of Duluth for the establishment or acquisition of a bus transportation system, and for the equipping thereof;

(3) All moneys received from the United States, through its department of transportation, or through any other department or

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agency thereof, received for the purpose of the establishment or acquisition of a bus transportation system, including but not limited to rolling stock and other equipment, and also all moneys received in connection with the planning of said bus transportation system.

The operating fund shall be used for operation, promotion, maintenance, or betterment of the bus transportation system provided for in this act, and for the expenses of the authority hereunder. The operating fund shall consist of all moneys of the authority from whatever source derived other than moneys credited to the special fund as hereinabove provided.

Subd. 4. At least once in each year the city auditor, under the direction of the city director of finance, shall make or cause to be made, at the expense of the authority, a complete examination and audit of all books and accounts of the authority; and for such purpose the city auditor shall have the power to inspect and examine such books and accounts at any time during regular business hours and at 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 words "bus transportation system" are used in this act, such words shall mean and include any bus transportation system established or acquired under authority of this act, including any land, buildings or other appurtenances incidental and necessary to the operation of such bus transportation system.

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, there is hereby conferred upon such authority the following powers and duties:

- (a) To sue and be sued;
- (b) To enter into and execute agreements, instruments, and other arrangements which are necessary, proper and convenient to the exercise of its powers;
- (c) To acquire by purchase, lease, or gift any real or personal property, franchises, easements, or other rights which may be necessary or proper for the operation of a bus transit system; and may acquire real property in such manner for use as terminal facilities, maintenance and garage facilities, ramps, parking facilities and other facilities used or useful for a bus transportation system; provided,

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however, that the acquisition of any real property by purchase, lease, or gift shall require the approval of the city council by resolution;

(d) To acquire by purchase, lease, or gift all or any part of the plant, equipment, property, real, personal, or mixed, rights and property, revenue, funds, special funds, franchises, licenses, patents, permits, papers, documents, and records after the effective date of this act, belonging to the operator of a bus transit system within the city of Duluth, and may in connection therewith assume any and all liabilities of any operator of such public transit system; all with the approval of the city council, evidenced by resolution;

(e) To acquire, construct, equip, improve, operate, and maintain terminal facilities, maintenance and garage facilities, ramps, transit lanes or rights of way, parking areas, rolling stock, and other facilities useful for or related to a public transportation system;

(f) To lease, sell, and otherwise dispose of any of its property, or to contract with any person or any operator, for use by such person or operator, any real or personal property under its control, with the approval of the city council, evidenced by resolution; provided, however, that the authority may lease or sell real and personal property that may be surplus to the continued operations of the transit system without approval of the council;

(g) To accept gifts, grants, or loans of money or other property from the United States, the state, or any person or entity; and for such purposes may enter into any agreement required in connection therewith, subject to approval of the city council, evidenced by resolution.

Subd. 3. Notwithstanding any of the provisions of this act, the authority shall have the power, in lieu of directly operating any public transportation system, or any part thereof, to enter into management contracts with any persons, firms or corporations for the management of said system, for such period or periods of time, and for such purposes, and under such compensation and other terms and conditions as shall be deemed advisable and proper by the authority and such persons, firms or corporations, subject to the approval, by resolution, of the city council.

Sec. 6. The authority shall have the power:

(a) 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 authority, and for the use and operation of the bus transportation system and the facilities of the authority, and for the pur-

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poses of carrying out the objects of this act; but such bylaws, rules and regulations shall not be in conflict with the terms of this act.

(b) To appoint and remove an executive director, and such other executive and administrative employees as the authority may deem necessary, including the appointment of consultants, except attorneys; and to prescribe the duties and fix the compensation of such executive director and other executive and administrative employees or consultants. Neither the executive director nor any executive or administrative employees of the authority shall be within the civil service classifications of the city of Duluth, whether such employees were employees of the system acquired, or were appointed by the authority after the system was acquired by the authority. The provisions of Minnesota Statutes, Sections 197.45 through 197.47, shall not be applicable to any such employees of the authority under this section.

(c) To prescribe or provide for a policy or policies of insurance for the defense and indemnification of the city of Duluth, its officers and employees, and directors, executive director, and administrative employees of the authority, 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 Duluth transit authority.

(d) To utilize the services and facilities of the department of finance and the city treasurer of the city of Duluth in the implementation of this act; and to pay the city for all charges and costs for such services. The city attorney and the purchasing agent shall be the attorney and the purchasing agent, respectively, for the authority; and the authority shall reimburse the city for all charges and costs incurred by the city therefor.

(e) 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.

(f) To establish and determine routes, and the scheduling of service, for the transportation system.

(g) To fix, alter, change, and collect fares, fees, rentals, and all other charges to be made for all services or facilities furnished by the authority to the public, or to any persons, or public or private agencies; provided, however, that no change in fares shall be made except upon public hearing before the city council, and approval by the city council, of any such change in fares.

Sec. 7. The executive director of the authority shall be re-

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sponsible for the custody and control of all moneys received and collected from the operations of the bus transportation system provided for in this act 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 the control of the city treasurer, subject, however, to the right of the city council, by resolution, to enter into a management contract under terms and conditions different from those provided for in this section.

The executive director 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 annually by the authority; such bond to be conditioned upon the faithful discharge of his official duties, and approved as to form, correctness and validity by the city attorney, and filed with the city auditor. Premiums for such bonds shall be paid for out of the funds of the Duluth transit authority. In addition, the authority may require bonds in favor of the city of Duluth for any other of its employees, in such amount, and with such surety or sureties, as it may deem necessary and proper for the protection of the city. Premiums for any such bonds shall be paid for out of funds of the Duluth transit authority. The authority shall, in addition to other insurance provisions of this act, provide for insurance on any of its property, rights, revenue, workmen's compensation, public liability, or any other risk or hazard arising from its activities; and the premiums for any such insurance shall be paid for out of funds of the Duluth transit authority.

Sec. 8. There shall be transferred to and vested in the authority and the city council all of the powers and functions of the public service commission of the state of Minnesota with respect to any bus transportation system, or part thereof, which shall have been constructed or acquired by and is owned by the city of Duluth and operated under the direction of the Duluth transit authority provided for in this act; and with respect to any such bus transportation system so constructed, acquired and owned by the city and operated by said authority, the exercise of such powers and functions by the authority and the city council shall be exclusive, and the public service commission shall not have authority to exercise such powers and functions with respect thereto.

An appeal from any order or decision of the authority and the city council may be taken by any party aggrieved thereby in like manner and with like effect as provided by law for appeals in corresponding cases from orders or decisions of the public service commission.

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Sec. 9. If the authority, on behalf of the city of Duluth, acquires an existing bus transportation system, all employees of such system who are necessary for the operation thereof by the authority may be transferred to and appointed as employees of the authority for the purposes of such bus transportation system, subject to all the rights and benefits of this act. Employees of the authority shall not be within the civil service classifications of the city of Duluth.

The employees of the authority, except executive or administrative employees appointed pursuant to the provisions of this act, shall in case of any dispute arising under any existing or new collective bargaining agreement relating to the terms and conditions of their employment, have the right, for the purpose of resolving such disputes, to invoke the processes of final and binding arbitration as provided by Minnesota Statutes, Chapter 572, subject to any applicable provisions of the agreement not inconsistent with law.

Sec. 10. Notwithstanding any other provisions of law to the contrary, the property, moneys, and other assets of the authority, or revenues or other income of the authority, and all bonds, certificates of indebtedness, or other obligations issued by the authority, with the approval of the city council, and the interest thereon, shall be exempt from all taxation, licenses, fees, or charges of any kind imposed by the state of Minnesota, or by any county, municipality, political subdivision, taxing district, or other public agency or body of the state, including but not limited to the excise tax on gasoline or special fuel under Minnesota Statutes, Chapter 296.

Sec. 11. Subdivision 1. Notwithstanding anything to the contrary contained in the charter of the city of Duluth, any ordinance thereof, or any statute applicable thereto, limiting the amount levied in any one year for general or special purposes, the city council of the city of Duluth shall each year, at the time the tax levies for the support of the city are made, levy a tax on all taxable property in an amount not to exceed three mills in any year, by ordinance, subject to the referendum provisions of the home rule charter of the city of Duluth. The proceeds from such levy shall be paid into the city treasury, and shall be deposited in the operating fund provided for under section 4, subdivision 3, of this act.

Subd. 2. All moneys received by the city from the excess tax levy hereinabove provided for shall be used for the operation, promotion, maintenance or betterment of the bus transportation system; and for the expenses of the authority provided for herein.

Subd. 3. The authority, if authorized by an affirmative vote of

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at least three of its members, and approval by the city council, may borrow money on such terms as it deems proper, and may issue certificates of indebtedness for anticipation of the collection of the excess tax levy as hereinabove provided for upon like procedure and subject to like provisions and limitations as provided by Minnesota Statutes, Section 412.261, and acts amendatory thereof or supplementary thereto.

Sec. 12. Subdivision 1. Notwithstanding any limitations imposed by law or by the charter of the city of Duluth, the authority shall have the power to issue negotiable revenue bonds for any one or more of its purposes. Revenue bonds under this section shall be issued in such amounts, times, and series as the authority shall determine by resolution, upon approval and ratification of the city council of the city of Duluth, evidenced by resolution; and shall mature within 40 years from their date. No election shall be necessary to authorize the issuance of revenue bonds as herein provided for. Except as otherwise provided by this section, the maturities, any right of prior redemption, execution, paying agency, provision for interest, and other terms of the bonds, shall be subject to the provisions of Minnesota Statutes, Sections 475.54 to 475.56.

Subd. 2. Revenue bonds issued under this section shall not constitute a debt of the city of Duluth, and no tax levy may be compelled for their payment, but they shall be payable only from the revenues of the transit system or part thereof pledged by the authority and the city council to payment of principal thereof and interest thereon; and they shall so recite. At or before the issuance of revenue bonds, the authority, by resolution, and upon approval and ratification by the city council, shall pledge and appropriate to the payment of principal and interest the net revenues of the transit system, or some part thereof, not to include the proceeds of any tax levy, after provision for reasonable and necessary expenses of operation and maintenance, as described and defined in the authorizing resolution.

Subd. 3. By the authorizing resolution, the authority may provide covenants for the protection of the bondholders relating to disposition of bond proceeds and revenues; reserves and investment thereof; construction, acquisition, repair, replacement, operation and insurance of the public transit system facilities; accounting and reports; issuance of parity or subordinate lien bonds; rates and charges to be established or maintained; competing public transit systems; and such other covenants as the authority shall find to be usual and reasonably necessary for the protection of transit revenue bondholders. Among other covenants, the authority is authorized to covenant on behalf of the city of Duluth that no franchise, license, or permit shall

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be granted or renewed for any public transit system or part thereof which would compete with the public transit system or part thereof, the revenues of which are pledged. The authority may also define the event or events of default and other requisites for suit by bondholders or their representatives, conditions of bond registration or replacement, and conditions upon which any covenant may be amended. Any terms, covenants, or conditions of revenue bonds to be provided by resolution of the authority may be set forth in a trust indenture with a corporation having trust powers appointed by the authority, with the approval of the city council, to represent and act for bondholders, and to hold and disburse pledged revenues, and to perform such other duties as may be provided in the trust indenture; but no such trust indenture shall confer or authorize any mortgage lien on the real or operating properties or general funds of the authority.

Subd. 4. Revenue bonds of the authority shall be deemed and treated as instrumentalities of a public government agency; and as such, together with interest thereon, exempt from taxation.

Sec. 13. Subdivision 1. In addition to the powers contained in section 12 hereof, the city upon request of the authority shall have the power to issue general obligation bonds for any of the following purposes:

(a) To purchase, construct, or equip terminal facilities, maintenance and garage facilities, ramps, parking areas, or similar facilities used or useful in connection with a public transit system or part thereof;

(b) To acquire, improve, extend, or reconstruct any public transit system presently operated in the city of Duluth, or any part thereof;

(c) To acquire any property or equipment useful for the construction, reconstruction, extension, improvement, or operation of any public transit system presently operated in the city of Duluth, or any part thereof;

(d) To construct and improve a new public transit system for the city of Duluth other than a presently existing transit system, and in connection therewith may exercise all the powers provided for in this section.

Subd. 2. Obligation bonds under this section shall be issued in such amounts, but in no event to exceed the sum of \$1,400,000, at such times and in such series as the authority shall determine by resolution, subject to approval and ratification by the city council of the

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city of Duluth, evidenced by ordinance. Except as otherwise provided by this section, the maturities, any right of prior redemption, execution, paying agency, provision for interest, or other terms of the bonds, shall be subject to the provisions of Minnesota Statutes, Sections 475.54 to 475.56.

Subd. 3. General obligation bonds issued under this section shall constitute a debt of the city of Duluth for which the full faith and credit of the city shall be pledged; and a tax levy shall be compelled for their payment in the manner required by Minnesota Statutes, Chapter 475; and they shall so recite.

Sec. 14. Subdivision 1. In the event that it shall become necessary for any of the purposes enumerated in this act to exercise the power of eminent domain, such power shall not be exercised by the authority, but the city of Duluth may acquire any of the properties hereinbefore provided for in this act necessary for the conduct of a bus transportation system, or for the purpose of acquiring any land, waters, easements, or other rights or interests therein by the exercise of the power of eminent domain, either as provided for under the home rule charter of the city of Duluth, or under Minnesota Statutes, Chapter 117, and acts amendatory thereof or supplementary thereto. Any such exercise of the power of eminent domain by the city shall be at the request and expense of the authority. The fact that any such property is owned by a public service corporation organized for the purpose specified in Minnesota Statutes, Section 300.03, or is already devoted to a public use, or to use by a corporation, or was acquired therefor by condemnation, shall not prevent its acquisition by the city for the authority by condemnation. The city, on behalf of the authority, may take possession of any property for which condemnation proceedings have been commenced at any time after the filing of the petition describing the property in the proceedings.

Subd. 2. Any state department or other agency of the state government, or any county, municipality, or other public agency, may sell, lease, grant, transfer, or convey to the authority, upon approval of the city council, evidenced by resolution, with or without consideration, any facilities or any part or parts thereof, or any real or personal property or interest therein, which may be useful to the authority for any authorized purpose.

Sec. 15. The authority shall regulate the making of bids and letting of contracts through procedures established by the authority, in which case the authority would be substituted for the city council insofar as the conditions as set forth in section 31 of the home rule charter of the city of Duluth are concerned.

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Sec. 16. The exercise by the authority and the city council of the powers provided in this act shall not be subject to regulation by or the jurisdiction or control of any other public body or agency, either state, county, or municipal, except as specifically provided in this act.

Sec. 17. The provisions of this act shall be severable; and if any provision thereof, or the application of any such provision under any circumstances, is held invalid, it shall not affect any other provision of this act, or the application in different circumstances.

Sec. 18. This act may be cited as the Duluth transit authority act of 1969.

Sec. 19. This act shall become effective only after its approval by a majority of the city council of the city of Duluth, and upon compliance with the provisions of Minnesota Statutes, Section 645.021.

Approved May 24, 1969.

CHAPTER 721—H. F. No. 2402

An act relating to the use of filled dairy products in state institutions; amending Minnesota Statutes 1967, Section 32.5311.

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

Section 1. Minnesota Statutes 1967, Section 32.5311, is amended to read:

32.5311 Dairy products; filled; state institutions. It shall be unlawful for any person, firm or corporation, by himself or itself, his or its employee or agent, or as the employee or agent of another, to manufacture, sell, or exchange, or to have in possession a filled dairy product knowing the same to be a filled dairy product and with intent to sell or exchange, any filled dairy product either under the name of any dairy product, including but not limited to, milk, cream, sour cream, butter cream, skimmed milk, ice cream, whipped cream, flavored milk or skim milk drink, dried or powdered milk, cheese, cream cheese, cottage cheese, creamed cottage cheese, ice cream mix, sherbet, condensed milk, evaporated milk, or concentrated milk, or as a labeled imitation thereof, or under any fictitious or trade name. *Nothing herein shall be deemed to prohibit the use of filled dairy products in state institutions when approved by the medical director or if there be none, by the superintendent of the institution, for the*

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