

Presented to the governor May 4, 1995

Signed by the governor May 5, 1995, 9:05 a.m.

CHAPTER 124—H.F.No. 54

An act relating to state government; directing the governor, attorney general, and other public officers to perform certain duties in regard to certain waters and public lands; proposing coding for new law in Minnesota Statutes, chapters 1 and 84B.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **[1.0451] LIMITS ON CONSENT TO FEDERAL ACQUISITIONS OF LANDS IN ST. LOUIS, LAKE, AND COOK COUNTIES; WATER AND LAND OWNERSHIP; DUTIES OF STATE OFFICIALS.**

Subdivision 1. OWNERSHIP OF NAVIGABLE WATERS AND BEDS. Pursuant to applicable federal and state law under which Minnesota was admitted to the union on equal footing with the original 13 states, navigable waters and their beds located within the exterior boundaries of the state are owned by the state. In a few limited circumstances, as in section 1.044, relating to the Upper Mississippi Wildlife and Fish Refuge, the state has expressly granted its consent and concurrent jurisdiction to the United States to acquire interests in water, as well as land, for a limited purpose and in the limited area described in its consent. Unlike section 1.044, the consent granted by the state in section 1.045 to acquisitions by the United States for the Superior National Forest is limited to land, only. The state has never ceded to the United States, either expressly or implicitly, its ownership of and jurisdiction over the navigable waters and their beds that are located within the exterior boundaries of the forest.

Subd. 2. STATE OWNERSHIP OF AND JURISDICTION OVER CERTAIN LANDS. Pursuant to the Organic Act that created the territory of Minnesota (Act of Congress, March 3, 1849, 9 Stat. ch. 121, section 18), and the Enabling Act that authorized the people of the territory of Minnesota to establish the state of Minnesota (Act of Congress, February 26, 1857, 11 Stat. ch. 60, section 5, first paragraph), federal public domain lands located in sections 16 and 36 in every township at the time of statehood were granted to the state for the use of schools, together with equivalent land located in other sections if section 16 or 36 had been disposed of before statehood. In conformity with the terms of the federal grant, the citizens of Minnesota, by constitution, article 11, section 8, have dedicated the proceeds from the sale or other disposition of these school grant lands, and the proceeds from the sale or other disposition of lands subsequently received from the United States under swampland grants, to public school purposes. By constitution, article 11, sections 8 and 10, the disposition of school and swampland grant lands, frequently referred to as trust fund lands, is

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limited to sale at public auction or exchange. Roughly 100,000 acres of state-owned, mostly trust fund land, is located within that portion of the Superior National Forest that is described as the Boundary Waters Canoe Area Wilderness. Much of this state-owned trust fund land, as well as other state-owned land that is tax-forfeited and is held in trust for local taxing districts, is high-value lakeshore land. The state has not disposed of these lands to the United States and has not ceded jurisdiction over these lands, either expressly or implicitly, to the United States.

Subd. 3. DUTIES OF CONSTITUTIONAL OFFICERS AND OTHER STATE OFFICIALS. In the discharge of their official duties, the governor, attorney general, other constitutional officers, and other public officials, such as the commissioner of natural resources, shall vigorously assert and defend, in all forums, the state's ownership of and jurisdiction over the navigable waters and their beds, the state trust fund lands and lands held in trust for local taxing districts located in the Superior National Forest, the natural resources related to these lands, waters, and beds, and the associated rights of the state and its citizens arising from the state's ownership and jurisdictional interests in these lands, waters, and beds. In furtherance of their duties, the governor, attorney general, other constitutional officers, and other public officials shall, additionally, be especially cognizant of the free rights of travel afforded to citizens of Minnesota and others under the Webster-Ashburton Treaty (proclaimed November 10, 1842) and the Root-Bryce Treaty (proclaimed May 13, 1910) on international and associated boundary waters. Also, in furtherance of their duties, in any exchange or other disposition of state-owned land located within the Boundary Waters Canoe Area Wilderness, the governor, attorney general, state auditor, commissioner of natural resources, and any other public official involved in such matters shall be especially cognizant of the high value of the lakeshore and other state land located within the area.

Sec. 2. [84B.061] STATE JURISDICTION OVER RAINY LAKE AND OTHER NAVIGABLE WATERS; DUTIES OF GOVERNOR, ATTORNEY GENERAL, AND OTHER PUBLIC OFFICERS.

As required by chapter 84B and the act of Congress authorizing Voyageurs National Park, the state of Minnesota donated in excess of 35,000 acres of state and other publicly-owned land for the park, roughly one-fourth of the land area of the park, at a cost of over \$5,000,000 to the state. More than 24,000 acres of this land was state trust fund land which the state condemned before making its donation. Pursuant to section 84B.06, lands donated by the state, along with other lands acquired by the national park service for the park, were made subject to concurrent jurisdiction by the state and the United States under section 1.041. In making these donations none of the navigable waters within the park and the lands under them have been donated to the United States. These navigable waters include the following: Rainy, Kabetogama, Namakan, Sand Point, and Crane lakes. Pursuant to applicable federal and state law, navigable waters and their beds are owned by the state. Ownership of and jurisdiction over these waters and their beds has not been ceded by the state, either expressly or implic-

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itly, to the United States. Unlike section 1.044 relating to the Upper Mississippi Wildlife and Fish Refuge, where the state expressly granted its consent and jurisdiction to the United States to acquire interests in water, as well as land, the consent granted by the state in section 84B.06 to acquisitions by the United States for Voyageurs National Park is limited to land, only. In the discharge of their official duties, the governor, attorney general, other constitutional officers, and other public officials, such as the commissioner of natural resources, shall vigorously assert and defend, in all forums, the state's ownership of and jurisdiction over these waters and their beds and related natural resources, together with associated rights of the state and its citizens arising from the state's ownership and jurisdiction. In discharging their duties the governor, attorney general, other constitutional officers, and other public officials shall, additionally, be especially cognizant of the free rights of travel afforded to citizens of Minnesota and others under the Webster-Ashburton Treaty (proclaimed November 10, 1842) and the Root-Bryce Treaty (proclaimed May 13, 1910) on international and associated boundary waters. Also, in furtherance of duties under this section, the commissioner of natural resources shall continue in effect the commercial removal of rough fish, as defined in section 97A.015, subdivision 43, from these waters, together with any rights to do so possessed by any person on January 1, 1995, so long as the commissioner determines that such taking is desirable to the management of the native fishery.

Sec. 3. **EFFECTIVE DATE.**

Sections 1 and 2 are effective the day following final enactment.

Presented to the governor May 8, 1995

Became law without the governor's signature May 11, 1995

CHAPTER 125—H.F.No. 354

An act relating to utilities; allowing small gas utility franchises an exemption from rate regulation for incidental utility service; amending Minnesota Statutes 1994, section 216B.16, subdivision 12.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1994, section 216B.16, subdivision 12, is amended to read:

Subd. 12. **EXEMPTION FOR SMALL GAS UTILITY FRANCHISE.** (a) A municipality may file with the commission a resolution of its governing body requesting exemption from the provisions of this section for a public utility that is under a franchise with the municipality to supply natural, manufactured, or mixed gas and that serves 650 or fewer customers in the municipality as long as the public utility serves no more than a total of 2,000 customers.

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