

(5) In the case covered by subsection (4) failure to reject documents within the time specified in subparagraph (b) constitutes acceptance of the documents and makes the payment final in favor of the beneficiary.

Sec. 5. Minnesota Statutes 1994, section 336.10-104, is amended to read:

**336.10-104 LAWS NOT REPEALED.**

(1) The article on documents of title (article 7) does not repeal or modify any laws prescribing the form or contents of documents of title or the services or facilities to be afforded by bailees, or otherwise regulating bailees' businesses in respects not specifically dealt with herein; but the fact that such laws are violated does not affect the status of a document of title which otherwise complies with the definition of a document of title (section 336.1-201).

(2) ~~This chapter does not repeal Minnesota Statutes 1961, Sections 520.21 to 520.31, cited as the uniform act for the simplification of fiduciary security transfers, and if in any respect there is any inconsistency between that act and the article of this chapter on investment securities (article 8) the provisions of the former act shall control.~~

Presented to the governor May 19, 1995

Signed by the governor May 22, 1995, 7:33 p.m.

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**CHAPTER 195—S.F.No. 467**

*An act relating to metropolitan government; providing for coordination and consolidation of public safety radio communications systems; providing governance and finance of the state and regional elements of a regionwide public safety radio communication system; extending the public safety channel moratorium; authorizing the use of 911 emergency telephone service fees for costs of the regionwide public safety radio communication system; authorizing the issuance of bonds by the metropolitan council; appropriating money; amending Minnesota Statutes 1994, section 352.01, subdivision 2a; proposing coding for new law in Minnesota Statutes, chapters 174; and 473.*

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

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## ARTICLE 1

## PUBLIC SAFETY RADIO COMMUNICATION SYSTEM

Section 1. [174.70] PUBLIC SAFETY RADIO COMMUNICATIONS.

The commissioner of transportation may exercise the powers granted in this chapter and in sections 473.891 to 473.905, to plan and implement the communications system as provided in sections 473.891 to 473.905.

Sec. 2. [473.891] DEFINITIONS.

Subdivision 1. APPLICATIONS. The definitions in this section apply to sections 473.891 to 473.905.

Subd. 2. BOARD. "Board" or "radio board" means the metropolitan radio board.

Subd. 3. FIRST PHASE. "First phase" or "first phase of the regionwide public safety radio communications system" means the initial backbone which serves state and regional agencies.

Subd. 4. LOCAL ELECTED OFFICIALS. "Local elected officials" means any elected official of a local government.

Subd. 5. LOCAL GOVERNMENT. "Local government" means any county, home rule charter or statutory city, or town, lying in whole or in part within the metropolitan area.

Subd. 6. NPSPAC CHANNELS. "NPSPAC channels" or "National Public Safety Planning Advisory Committee channels" means the following 800 megahertz channels: 821 to 824 and 866 to 869 megahertz.

Subd. 7. PLAN. "Plan" or "regionwide public safety radio system communication plan" means the plan adopted by the metropolitan radio board for a regionwide public safety radio communications system.

Subd. 8. SUBSYSTEMS. "Subsystems" or "public safety radio subsystems" means systems identified in the plan as subsystems interconnected by the first phase backbone in subsequent phases and operated by local government units for their own internal operations.

Subd. 9. SYSTEM; BACKBONE SYSTEM. "System" or "backbone system" means a regionwide public safety radio communication system that consists of a shared regionwide infrastructure network, the elements of which are identified in the regionwide public safety radio communications system plan, and subsystems interconnected by the shared regionwide network.

Sec. 3. [473.893] BOARD; MEMBERSHIP, ADMINISTRATION.

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Subdivision 1. GENERAL. The metropolitan radio board is established as a political subdivision. The board shall be organized, structured, and administered as provided in this section. Until funds to administer the board become available under section 473.894, subdivision 19, the metropolitan council shall provide office space and administrative support to the board at no cost.

Subd. 2. MEMBERSHIP. The board consists of 17 members. Fifteen members shall be local officials and shall include:

(1) one county commissioner appointed by each respective county board from each of the seven metropolitan counties;

(2) an elected official from each of the cities of Minneapolis, St. Paul, and Bloomington appointed by each respective city governing body;

(3) two elected officials from other metropolitan cities appointed by the governor, who shall consider recommendations made by the Association of Metropolitan Municipalities when making these appointments;

(4) an elected official from a county or a city within a county in Minnesota that is contiguous to the metropolitan area appointed by the governor, who shall consider recommendations made by the League of Minnesota Cities when making this appointment;

(5) a sheriff appointed by the governor, who shall consider recommendations made by the metropolitan sheriffs association when making this appointment; and

(6) a police chief appointed by the governor, who shall consider recommendations made by the Minnesota police chiefs association when making this appointment.

The 16th member shall be a member of the metropolitan council appointed by the council. The 17th member shall be the director of electronic communications of the Minnesota department of transportation. As provided in section 473.894, subdivision 20, the chair of the technical operations committee serves as an ex officio member of the board.

The members shall be appointed within 30 days of the effective date of this act. Upon the effective date of this act, the metropolitan council shall inform the entities listed in this subdivision of the appointments required by this subdivision and shall provide whatever assistance is necessary to facilitate the appointment process and establish the radio board.

Board members have no set term and remain on the board until a successor is appointed as provided by this subdivision. However, with respect to those board members who, under this subdivision, must be elected officials, a successor must be appointed as provided by this subdivision no later than the date that a member is no longer an elected official, unless the member dies while in office, in which case a successor must be named as soon as practicable.

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Subd. 3. OFFICERS. The officers of the board are: chair; vice-chair; secretary; and treasurer. The chair shall preside at all meetings of the board, and in the chair's absence, the vice-chair shall preside. The secretary shall keep a complete record of the minutes of each meeting. The treasurer shall keep the financial records of the board. The chair and vice-chair of the board shall be selected by a majority vote from the members of the board. The secretary and treasurer need not be members of the board.

Subd. 4. CONTRACTS. Contracts and other written instruments of the board shall be signed by the chair or vice-chair and if the board has an executive director, by the executive director of the board pursuant to authority from the board.

Subd. 5. BYLAWS. The board shall conduct its business in accordance with bylaws duly adopted by a majority of the board.

Subd. 6. VOTING. Each member has one vote. The majority of the voting power of the board constitutes a quorum although a smaller number may adjourn from time to time. Any motion, other than adjournment, shall be favored by a majority of the voting power of the board in order to carry.

#### Sec. 4. [473.894] POWERS OF THE BOARD.

Subdivision 1. GENERAL. The board has the powers necessary and convenient to discharge the duties imposed on it by law, including those listed in this section.

Subd. 2. PLANNING. The board shall review and, within 90 days of the effective date of this act, adopt the regionwide public safety radio system communication plan prepared by the metropolitan radio systems planning committee pursuant to Laws 1993, chapter 313, section 3, subdivision 2, for using the 800 megahertz and other frequencies available for public safety use. The plan must include, at a minimum:

(1) a system design recommended by the Minnesota commissioner of transportation for the first phase consisting of a shared regionwide infrastructure network;

(2) a system design for subsequent phases; and

(3) a plan for assignment of frequencies to the regional network and to each subsystem.

No later than 30 days prior to adoption of the plan by the board, the board shall submit the plan to the metropolitan council for review in accordance with section 473.165, clause (1). The council may make comments to the board about the plan in accordance with section 473.165, clause (2), except that the deadline for comments shall be made within 30 days after submission of the plan to the council.

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If, within the 30-day review period, the council has made no comment on the plan or has made no findings as provided in section 473.165, clause (2), the plan shall go into effect as of the date of adoption by the board.

If, within the 30-day review period, the council has made findings as provided in section 473.165, clause (2), the board and the council shall follow the procedure provided in section 473.165, clause (2). The board may adopt revisions to the plan in the same manner as is provided in this subdivision for adoption of the plan.

**Subd. 3. APPLICATION TO FCC.** Within 180 days from adoption of the statewide public safety radio system communication plan the commissioner of transportation, on behalf of the state of Minnesota, shall use the plan adopted by the board under subdivision 2 to submit an extended implementation application to the Federal Communications Commission (FCC) for the NPSPAC channels and other public safety frequencies available for use in the metropolitan area and necessary to implement the plan. Local governments and all other public or private entities eligible under part 90 of the FCC rules shall not apply for public safety channels in the 821 to 824 and 866 to 869 megahertz bands for use within the metropolitan counties until the FCC takes final action on the regional application submitted under this section. Exceptions to the restrictions on the application for the NPSPAC channels may be granted by the radio board. The Minnesota department of transportation shall hold the master system licenses for all public safety frequencies assigned to the metropolitan area issued by the FCC under the board's plan and these channels shall be used for the implementation of the plan. Local governments and other public and private entities eligible under part 90 of the FCC rules may apply to the FCC as colicensees for subscriber equipment and those portions of the network infrastructure owned by them. Application for colicensing under this section shall require the concurrence of the radio board.

**Subd. 4. PLAN IMPLEMENTATION.** The board shall supervise the implementation of the statewide public safety radio system communication plan adopted under subdivision 2 and must ensure that the system is built, owned, operated, and maintained in accordance with the plan. The board will work with the region 22 NPSPAC committee to incorporate the board's adopted plan into federal communication system regulations.

**Subd. 5. REQUIRED MINIMUM LEVEL OF SERVICE FOR LOCAL GOVERNMENTS.** Subject to system capacity and channel availability, the board shall ensure that all local governments, quasi-public service operations, and private entities in the metropolitan counties that are eligible to use radio frequencies reserved for public safety use have adequate communications capacity and intercommunications capability.

**Subd. 6. BACKBONE AND SUBSYSTEMS.** In the statewide public safety radio system communication plan, the board shall define the backbone consistent with the recommendations made by the commissioner of transporta-

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tion and the subsystems of the system, the timing and phasing of system development, the geographic scope of the system, the timing and extent of participation in the system including participation by additional entities, and standards for system performance. System performance standards shall be developed in consultation with the commissioner of transportation. The initial backbone shall serve state and regional agencies and shall include capabilities for regionwide mutual aid and emergency medical services communications and potentially provide alternative routing for 911 services.

**Subd. 7. EXISTING CHANNEL ALLOCATION.** The board shall coordinate allocation of existing radio channels made available to the board by conversion to 800 megahertz or other public safety frequencies.

**Subd. 8. COST APPORTIONMENT.** The board shall determine how capital, operating, and administrative costs of the first phase system will be spread across users of the regionwide public safety radio communication system, including costs for additional participants.

**Subd. 9. EXCESS CAPACITY ALLOCATION.** The board shall determine how excess capacity provided in the initial system design in the regionwide public safety radio communication system will be allocated.

**Subd. 10. SYSTEM ENHANCEMENT REGULATION.** The board shall determine the extent to which local governments, quasi-public service corporations, and private entities eligible to use the system may provide system enhancements at their own direct expense.

**Subd. 11. PERFORMANCE STANDARDS.** The board shall set performance standards for operation of the backbone and subsystems and may modify standards as necessary to meet changing needs.

**Subd. 12. USE PRIORITIES.** The board shall establish priorities or protocols for use of the system.

**Subd. 13. FIRST PHASE CONSTRUCTION.** In order to implement the first phase backbone, the board shall contract with the state of Minnesota, through the commissioner of transportation for construction, ownership, operation, maintenance, and enhancement of these elements of the first phase backbone as defined in the plan. The commissioner, under appropriate state law, shall contract for, or procure by purchase or lease, (including joint purchase and lease agreements), construction, installation of materials, supplies and equipment, and other services as may be needed to build, operate, and maintain the first phase system network. In accordance with the terms of the contract entered into with the radio board under this subdivision, the department of transportation will own, operate, and maintain those elements identified by the radio board in the plan as the first phase. The state will finance and pay for its share of the first phase.

**Subd. 14. EXECUTIVE DIRECTOR.** The board may employ and fix the

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duties and compensation of an executive director who shall supervise the implementation of the plan including the design, ownership, construction, and operation of the first phase system and shall administer the business affairs of the board. The executive director is eligible for membership in the Minnesota state retirement system. Until funds to administer the board become available under subdivision 19, the metropolitan council shall provide to the board an executive director who will be a staff member of the council. The executive director shall serve at the pleasure of the board.

**Subd. 15. SYSTEM USE BY NONGOVERNMENTAL ENTITIES.** The board may contract with entities in the metropolitan counties eligible to use the public safety channels other than local governments, to provide them with public safety radio communication service. The board may contract with eligible jurisdictions and entities outside the metropolitan counties for inclusion in the regionwide public safety radio communication system.

**Subd. 16. MINUTES OF BOARD MEETINGS.** The board shall keep proper minutes of all its proceedings which shall be open to public inspection at all reasonable times.

**Subd. 17. ACCOUNTING.** The board shall keep proper and adequate books of accounts showing all its receipts and disbursements by date, source, and amount. The board must be audited at least once each year. The board may elect to be audited by a certified public accountant or by the state auditor.

**Subd. 18. INSURANCE.** The board may obtain suitable, proper, and adequate public liability and workers' compensation insurance and other insurance as it deems necessary, including but not limited to, insurance against the liability of the board or its officers and employees for personal injury or death and property damage or destruction, with the force and effect stated in chapter 466, and against risks of damage to or destruction of any of its facilities, equipment, or other property.

**Subd. 19. USER FEES.** In accordance with the plan authorized in subdivision 2, the board may establish and impose user fees on entities using the first phase system to cover the board's costs of implementing the plan and the costs of operating the first phase system in the metropolitan area. The metropolitan council will collect the user fees.

**Subd. 20. TECHNICAL OPERATIONS COMMITTEE.** The board shall establish a technical operations committee composed of representatives of the following functional categories to advise it in carrying out its purposes:

- (1) Minnesota department of public safety;
- (2) Minnesota department of transportation;
- (3) sheriffs;
- (4) police;

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- (5) fire protection;
- (6) emergency medical service;
- (7) public works;
- (8) civil defense;
- (9) metro 911 telephone board;
- (10) entities using 800 megahertz prior to initiation of the regional system;
- (11) managers or purchasing agents possessing expertise from a general perspective;
- (12) representatives of local units of government; and
- (13) regionwide public safety radio communication system users.

The members of the technical operations committee serve without compensation. The chair of the technical operations committee is an ex officio member of the radio board.

Subd. 21. CONTRACTS. The board may enter into contracts necessary to carry out its responsibilities.

Subd. 22. PROPERTY. The board may acquire by purchase, lease, gift, or grant, property, both real and personal, and interests in property necessary for the accomplishment of its purposes and may sell or otherwise dispose of property which it no longer requires.

Subd. 23. GIFTS; GRANTS. The board may apply for, accept, and disburse gifts, grants, or loans from the United States, the state, or from any person for any of its purposes. It may enter into an agreement required for the gifts, grants, or loans and may hold, use, and dispose of money or property received according to the terms of the gift, grant, or loan.

Subd. 24. AUTHORITY TO LITIGATE. The board may sue and be sued.

#### **Sec. 5. [473.895] ADVERSE INTERESTS OF BOARD MEMBERS.**

As provided in section 471.87, no member of the board shall have any personal or financial interest in any sale, lease, or other contract made by the board. Any violation of section 471.87 may make the sale, lease, or other contract voidable by the board. Upon conviction for a violation of section 471.87, a board member is automatically disqualified from further service on the board.

#### **Sec. 6. [473.896] COMPENSATION OF BOARD MEMBERS.**

Subdivision 1. PER DIEM AND EXPENSES. Except as provided in subdivision 2, and unless otherwise prohibited by law, each board member of the radio board shall be reimbursed for actual and necessary expenses incurred in the performance of duties. The chair shall be paid a per diem in the same

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amount as is provided in section 15.0575, subdivision 3, for attending meetings, monthly, executive, and special, and board members shall be paid a per diem in the same amount as is provided in section 15.0575, subdivision 3, for attending meetings, monthly, executive, and special. A board member who receives a per diem from the board member's county or city shall not be paid a per diem for the same day by the board for attending meetings of the board. The annual budget of the board shall provide, as a separate account, anticipated expenditures for per diem, travel, and associated expenses for the chair and members, and compensation or reimbursement shall be made to the chair or members only when budgeted.

Subd. 2. LIMITATION. A board member whose annual public salary is \$25,000 or more shall only be reimbursed for expenses related to travel.

Sec. 7. **[473.897] FINANCE.**

Subdivision 1. BUDGET PREPARATION; REVIEW AND APPROVAL. The board shall prepare a proposed budget by August 1 of each year. The budget shall include operating revenues and expenditures for operation, administration, and maintenance. In addition, the budget must show for each fiscal year of the state biennium:

(1) the estimated operating revenues from all sources including funds on hand at the beginning of the year, and estimated expenditures for costs of operation, administration, maintenance, and debt service;

(2) capital improvement funds estimated to be on hand at the beginning of the year and estimated to be received during the year from all sources and estimated cost of capital improvements to be paid out or expended during the year, all in such detail and form as the council may prescribe; and

(3) the estimated source and use of pass-through funds.

As early as practicable before August 15 of each year, the board shall hold a public hearing on a draft of the proposed budget. Along with the draft, the board shall publish a report on user charges. The report must include an estimated analysis of the changes in user charges, rates, and fees that will be required by the board's budget. Not less than 14 days before the hearing, the board shall publish notice of the hearing in a newspaper having general circulation in the metropolitan area, stating the date, time, and place of hearing, and the place where the proposed budget and report on user charges may be examined by any interested person.

Following the hearing, the board shall publish a report of the hearing that summarizes the comments received and board's response. The council shall approve or disapprove the entire budget by October 1 of each year. The council may disapprove only if the budget does not have adequate reserves to meet debt service. If the council disapproves the budget in accordance with this subdivision, the board shall, by November 1, resubmit to the council for approval, a budget which meets the requirements for council approval as provided in this subdivision. The council shall approve or disapprove the entire resubmitted budget by December 1.

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Before December 15 of each year, the board shall, by resolution, adopt a final budget. The board shall file its final budget with the council on or before December 20 of each year. The council shall file the budgets with the secretary of the senate and the clerk of the house of representatives not later than January 1 of each year. Before adoption, the board must submit any budget amendment which would affect debt service reserves to the council for review. The council has 15 days to approve or disapprove the amendment. The council shall disapprove the budget amendment only if the budget does not have adequate reserves to meet debt service.

Except in an emergency, for which procedures must be established by the board, the board and its officers, agents, and employees may not spend money for any purpose, other than debt service, without an appropriation by the board, and no obligation to make such an expenditure shall be enforceable except as the obligation of the person or persons incurring it. The creation of any debt obligation or the receipt of any federal or state grant is a sufficient appropriation of the proceeds for the purpose for which it is authorized, and of the tax or other revenues pledged to pay the obligation and interest on it whether or not specifically included in any annual budget. After obtaining the approval of the council, the board may amend the budget at any time by transferring any appropriation from one purpose to another, except appropriations of the proceeds of bonds issued for a specific purpose. The council shall disapprove only if the amended budget does not have adequate reserves to meet debt service.

Subd. 2. PROGRAM EVALUATION. The budget procedure of the board must include a substantive assessment and evaluation of the effectiveness of each significant part of the regionwide public safety radio communication system implementation plan adopted by the board with, to the extent possible, quantitative information on the status, progress, costs, benefits, and effects of each program.

The board shall transmit the evaluation to the metropolitan council annually.

Subd. 3. COUNCIL REPORT TO LEGISLATURE. Biennially the council shall submit a report to the legislature detailing the board's activities and finances for the previous year, the extent to which the system has been expanded beyond the metropolitan area, and the appropriateness of transferring responsibility for the metropolitan radio board to a state agency.

Subd. 4. RESALE OF SERVICES OR CAPACITY PROHIBITED. Neither the council, the board, or any local government unit may resell any service or capacity of this system to a nonpublic entity, except for those private entities eligible to hold Federal Communications Commission licenses in the public safety and special emergency radio services, as defined in the Code of Federal Regulations, title 47, part 90 (1994).

**Sec. 8. [473.898] REVENUE BONDS; OBLIGATIONS.**

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Subdivision 1. AUTHORIZATION. The council, if requested by a vote of at least two-thirds of all of the members of the metropolitan radio board may, by resolution, authorize the issuance of its revenue bonds for any of the following purposes to:

(1) provide funds for regionwide mutual aid and emergency medical services communications;

(2) provide funds for the elements of the first phase of the regionwide public safety radio communications system that the board determines are of regionwide benefit and support mutual aid and emergency medical services communication including, but not limited to, costs of master controllers of the backbone; or

(3) refund bonds issued under this section.

Subd. 2. PROCEDURE. The bonds shall be sold, issued, and secured in the manner provided in chapter 475 for bonds payable solely from revenues, except as otherwise provided in sections 473.891 to 473.905 and the council shall have the same powers and duties as a municipality and its governing body in issuing bonds under chapter 475. The bonds may be sold at any price and at public or private sale as determined by the council.

The bonds shall be payable from and secured by a pledge of the emergency telephone service fee provided in chapter 403 and shall not represent or constitute a general obligation or debt of the council and shall not be included in the net debt of any city, county, or other subdivision of the state for the purpose of any debt limitation.

Subd. 3. LIMITATIONS. The principal amount of the bonds issued pursuant to subdivision 1, exclusive of any original issue discount, shall not exceed the amount of \$10,000,000 plus the amount the council determines necessary to pay the costs of issuance, fund reserves, debt service, and pay for any bond insurance or other credit enhancement.

Subd. 4. SECURITY. The bonds may be secured by a bond resolution or a trust indenture entered into by the council with a corporate trustee within or outside the state which shall define the fee pledged for the payment and security of the bonds and for payment of all necessary and reasonable debt service expenses until all the bonds referred to in subdivision 1 are fully paid or discharged in accordance with law. The pledge shall be a valid charge on the emergency telephone service fee provided in chapter 403. No mortgage of or security interest in any tangible real or personal property shall be granted to the bondholders or the trustee, but they shall have a valid security interest in the revenues and bond proceeds received by the council and pledged to the payment of the bonds as against the claims of all persons in tort, contract, or otherwise, irrespective of whether the parties have notice and without possession or filing as provided in the Uniform Commercial Code, or any other law, subject however to the rights of the holders of any general obligation bonds issued under section 473.903. In the bond resolution or trust indenture, the council may make covenants as it determines to be reasonable for the protection of the bondholders.

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Neither the council, nor any council member, officer, employee, or agent of the council, nor any person executing the bonds shall be liable personally on the bonds by reason of their issuance. The bonds are not payable from, and are not a charge upon, any funds other than the revenues and bond proceeds pledged to their payment. The council is not subject to any liability on the bonds and has no power to obligate itself to pay or to pay the bonds from funds other than the revenues and bond proceeds pledged. No holder of bonds has the right to compel any exercise of the taxing power of the council, except any deficiency tax levy the council covenants to certify under section 473.902, or any other public body, to the payment of principal of or interest on the bonds. No holder of bonds has the right to enforce payment of principal or interest against any property of the council or other public body other than that expressly pledged for the payment of the bonds.

Sec. 9. [473.899] DEPOSITORIES.

The metropolitan council shall, from time to time, designate one or more national or state banks, or trust companies authorized to do banking business, as official depositories for money of the board and shall require the board's treasurer to deposit all or a part of such money in those institutions. The designation shall be in writing and shall set forth all the terms and conditions upon which the deposits are made and shall be signed by the chair and treasurer and made a part of the minutes of the board. Any bank or trust company designated shall qualify as a depository by furnishing a corporate surety bond or collateral in the amounts required by section 118.01. No bond or collateral shall be required to secure any deposit insofar as it is insured under federal law.

Sec. 10. [473.900] MONEY; ACCOUNTS; INVESTMENTS.

Subdivision 1. TREASURER'S DUTIES. All money received by the metropolitan council under section 473.894, subdivision 19, shall be deposited or invested by the board's treasurer and disposed of as the board may direct in accordance with its budget, provided that any money that has been pledged or dedicated by the metropolitan council to the payment of obligations or interest on them or expenses incident to them, or for any other specific purpose authorized by law, shall be paid by the board's treasurer into the fund to which they have been pledged.

Subd. 2. FUNDS AND ACCOUNTS ESTABLISHED. The metropolitan council shall establish funds and accounts as may be necessary or convenient to handle the receipts and disbursements of the board in an orderly fashion.

Subd. 3. DEPOSITORIES; INVESTMENTS. The money on hand in the funds and accounts may be deposited in the official depositories of the metropolitan council or invested as provided in this subdivision. The amount not currently needed or required by law to be kept in cash on deposit, may be invested in obligations authorized for the investment of municipal sinking funds by section 475.66. The money may also be held under certificates of deposit issued by any official depository of the metropolitan council.

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**Subd. 4. USE OF BOND PROCEEDS.** The use of proceeds of all bonds issued by the metropolitan council for the purposes enumerated in section 473.898, subdivision 1, other than investment of all money on hand in any sinking fund or funds of the council, shall be governed by the provisions of chapter 475, the provisions of resolutions authorizing the issuance of the bonds, and by the trust indenture.

**Sec. 11. [473.901] USE OF EMERGENCY TELEPHONE SERVICE FEE; BUDGETS; APPROPRIATION TRANSFERS; AUDITS.**

**Subdivision 1. COSTS COVERED BY FEE.** Beginning July 1, 1995, the following costs shall be paid from money appropriated to the commissioner of administration for those costs from the 911 emergency telephone service account established under section 403.11:

(1) debt service costs and reserves for bonds issued pursuant to section 473.898;

(2) repayment of the right-of-way acquisition loans;

(3) costs of design, construction, maintenance of, and improvements to those elements of the first phase that support mutual aid communications and emergency medical services; or

(4) recurring charges for leased sites and equipment for those elements of the first phase that support actual aid and emergency medical communication services.

Money appropriated from the 911 emergency telephone service fee account shall be used to pay annual debt service costs and reserves for bonds issued pursuant to section 473.898 prior to use of fee money to pay other costs eligible under this subdivision. In no event shall the money appropriated from the 911 emergency telephone service fee account for the first phase radio system exceed an amount equal to four cents a month for each customer access line or other basic access service, including trunk equivalents as designated by the public utilities commission for access charge purposes and including cellular and other nonwire access services.

**Subd. 2. ANNUAL BUDGET OF RADIO BOARD.** The metropolitan council shall transmit the annual budget of the radio board to the commissioner of administration no later than December 15 of each year. The commissioner of administration shall include eligible costs for the regionwide public safety communication system in its request for legislative appropriations from the 911 emergency telephone service fee account. All eligible costs approved by the radio board shall be included in the commissioner of administration's appropriation request.

**Subd. 3. APPROPRIATION TRANSFERS.** Each month, before the 25th day of the month, the commissioner of administration shall transmit to the metropolitan council 1/12 of its total approved appropriation for the regionwide public safety communication system.

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**Sec. 12. [473.902] OPERATING COSTS.**

**Subdivision 1. ALLOCATION OF OPERATING COSTS.** The current costs of the board in implementing regionwide public safety radio communication plan system and the first phase system shall be allocated among and paid by the following users, all in accordance with the regionwide public safety radio system communication plan adopted by the board:

(1) the state of Minnesota for its operations using the system in the metropolitan counties;

(2) all local government units using the system; and

(3) other eligible users of the system.

**Subd. 2. PAYMENTS TO RADIO BOARD; AMOUNTS DUE BOARD WHEN PAYABLE.** Charges payable to the board by users of the system may be made payable at those times during each year as the board determines, but those dates shall be fixed with reference to the dates on which tax, assessment, and revenue collections become available to the government units required to pay such charges.

**Subd. 3. COMPONENT MUNICIPALITIES OBLIGATIONS TO BOARD.** Each local government and other eligible users of the first phase system shall pay to the board all sums charged to it under this section, at the times and in the manner determined by the board. The governing body of each local government shall take all action that may be necessary to provide the funds required for these payments and to make them when due.

**Subd. 4. POWERS OF GOVERNMENT UNITS.** To accomplish any duty imposed on it by the council or radio board, the governing body of every local government in the metropolitan area may exercise the powers granted any municipality by chapters 117, 412, 429, 475, and by sections 115.46, 444.075, and 471.59.

**Subd. 5. DEFICIENCY TAX LEVIES.** If the governing body of any local government using the first phase system fails to meet any payment to the board under subdivision 1 when due, the metropolitan council may certify to the auditor of the county in which the government unit is located the amount required for payment of the amount due with interest at six percent per year. The auditor shall levy and extend the amount due, with interest, as a tax upon all taxable property in the government unit for the next calendar year, free from any existing limitations imposed by law or charter. This tax shall be collected in the same manner as the general taxes of the government unit, and the proceeds of the tax, when collected, shall be paid by the county treasurer to the board and credited to the government unit for which the tax was levied.

**Sec. 13. [473.903] SALE OF GENERAL OBLIGATION BONDS.**

**Subdivision 1. AMOUNT; PURPOSES.** The metropolitan council may by resolution authorize the issuance of general obligation bonds of the council, in

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an amount outstanding and undischarged at any time not more than \$3,000,000, for which its full faith and credit and taxing powers shall be pledged for the council's share of the first phase. The metropolitan council may also issue general obligation bonds to refund outstanding obligations issued under this section. The amount of refunding bonds that may be issued from time to time shall not be subject to the dollar limitation contained in this subdivision nor the refunding bonds be included in computing the amount of bonds that may be issued within that dollar limitation.

**Subd. 2. SALE, TERMS, SECURITY.** The metropolitan council shall sell and issue the bonds in the manner provided in chapter 475 and shall have the same powers and duties as a municipality issuing bonds under that law, except that the approval of a majority of the electors shall not be required and the net debt limitations shall not apply. The bonds shall be secured in accordance with section 475.61, subdivision 1, and any taxes required for their payment shall be levied by the council, shall not affect the amount or rate of taxes which may be levied by the council for other purposes, and shall be levied without limitation of rate or amount upon all taxable property in the transit taxing district and transit area as provided in section 473.446, subdivision 1.

**Subd. 3. TEMPORARY LOANS.** The metropolitan council may, after the authorization of bonds under this section, provide funds immediately required for the purposes of subdivision 1 by effecting temporary loans upon terms as it shall by resolution determine, evidenced by notes due in not exceeding 24 months from their date, payable to the order of the lender or to the bearer, to be repaid with interest from the proceeds of the bonds when issued and delivered to the purchaser. The temporary loans may be made without public advertisement.

#### Sec. 14. [473.904] LOCAL PLANNING.

**Subdivision 1. COUNTY PLANNING PROCESS.** No later than two years from the date of enactment of this act, each metropolitan county shall undertake and complete a planning process for its public safety radio subsystem to ensure participation by representatives of local government units, quasi-public service organizations, and private entities eligible to use the regional public safety radio system and to ensure coordination and planning of the local subsystems. Local governments and other eligible users shall cooperate with the county in its preparation of the subsystem plan to ensure that local needs are met. The radio board shall encourage the establishment by each metropolitan county of local public safety radio subsystem committees composed of representatives of local governments and other eligible users for the purposes of:

(1) establishing a plan for coordinated and timely use of the regionwide public safety radio system by the local governments and other eligible users within each metropolitan county; and

(2) assisting and advising the board in its implementation of the regional public safety radio plan by identification of local service needs and objectives.

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The board shall also encourage the establishment of joint or multicounty planning for the regionwide public safety radio system and subsystems.

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

No metropolitan county or city of the first class shall be required to undertake a technical subsystem design to meet the planning process requirements of this subdivision or subdivision 2.

**Subd. 2. CITIES OF FIRST CLASS; PLANNING PROCESS.** Each city of the first class in the metropolitan counties shall have the option to participate in the county public safety radio subsystem planning process or develop its own plan.

**Subd. 3. SUBMISSION OF PLANS TO BOARD.** Each metropolitan county and each city of the first class in the metropolitan area which has chosen to develop its own plan shall submit the plan to the board for the board's review and approval.

**Subd. 4. LOCAL GOVERNMENT JOINDER.** Local government units, except for cities of the first class, quasi-public service organizations, and private entities eligible to use the regional public safety radio system cannot join the system until its county plan has been approved by the board.

#### Sec. 15. [473.905] OPTIONAL LOCAL USE OF REGIONAL SYSTEM.

**Subdivision 1. OPTIONS.** Use of the regional public safety radio system by local governments, quasi-public service organizations, and private entities eligible to use the system shall be optional and no local government or other eligible user of the system shall be required to abandon or modify current public safety radio communication systems or purchase new equipment until the local government or other eligible user elects to join the system. Public safety radio communication service to local governments and other eligible users who do not initially join the system shall not be interrupted. No local government or other eligible users who do not join the system shall be charged a user fee for the use of the system.

**Subd. 2. REQUIREMENTS TO JOIN.** Local governments and other entities eligible to join the regional public safety radio system which elect to join the system must do so in accordance with and meet the requirements of the provisions of the plan adopted by the radio board as provided in section 473.894, subdivision 2.

#### Sec. 16. FIRST BUDGET; TEMPORARY FUNDING.

**Subdivision 1. FIRST BUDGET.** The budget of the board prepared in 1995 need not be submitted to the council until October 1, 1995, and the council has 30 days to approve or disapprove the entire budget. The council may disapprove only if the budget does not have adequate reserves to meet debt service.

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Subd. 2. TEMPORARY FUNDING. For fiscal year 1996, the appropriation from the 911 emergency telephone service fee account shall be \$293,000. For fiscal year 1997, the appropriation from the 911 emergency telephone service fee account shall be \$93,000.

Sec. 17. **APPROPRIATION.**

\$194,000 is appropriated from the trunk highway fund to the commissioner of transportation for the biennium ending June 30, 1997, for the purposes of implementing the first phase of the public safety radio communications system as provided in Minnesota Statutes, sections 174.70 and 473.894.

Sec. 18. **SUNSET.**

The metropolitan radio board is abolished effective July 1, 1999. Effective July 1, 1999, the board's duties and responsibilities are transferred to the metropolitan council or an appropriate state agency, as provided by law, based on the reports submitted by the metropolitan council under section 7, subdivision 3, of this article. The designated agency is the successor to all the property, interests, obligations, and rules of the metropolitan radio board.

Sec. 19. **APPLICATION.**

Sections 1 to 16 and 18 apply in Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington counties.

Sec. 20. **EFFECTIVE DATE.**

Sections 1 to 16 and 19 are effective the day after final enactment. Section 17 is effective July 1, 1995. Section 18 is effective July 1, 1999.

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**ARTICLE 2**

**CONFORMING AMENDMENT**

Section 1. Minnesota Statutes 1994, section 352.01, subdivision 2a, is amended to read:

Subd. 2a. **INCLUDED EMPLOYEES.** (a) "State employee" includes:

- (1) employees of the Minnesota historical society;
- (2) employees of the state horticultural society;
- (3) employees of the Disabled American Veterans, Department of Minnesota, Veterans of Foreign Wars, Department of Minnesota, if employed before July 1, 1963;
- (4) employees of the Minnesota crop improvement association;

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(5) employees of the adjutant general who are paid from federal funds and who are not covered by any federal civilian employees retirement system;

(6) employees of the state universities employed under the university activities program;

(7) currently contributing employees covered by the system who are temporarily employed by the legislature during a legislative session or any currently contributing employee employed for any special service as defined in clause (8) of subdivision 2b;

(8) employees of the armory building commission;

(9) permanent employees of the legislature and persons employed or designated by the legislature or by a legislative committee or commission or other competent authority to conduct a special inquiry, investigation, examination, or installation;

(10) trainees who are employed on a full-time established training program performing the duties of the classified position for which they will be eligible to receive immediate appointment at the completion of the training period;

(11) employees of the Minnesota safety council;

(12) any employees on authorized leave of absence from the transit operating division of the former metropolitan transit commission who are employed by the labor organization which is the exclusive bargaining agent representing employees of the transit operating division;

(13) employees of the metropolitan council, metropolitan parks and open space commission, metropolitan sports facilities commission, ~~or the metropolitan mosquito control commission,~~ or metropolitan radio board unless excluded or covered by another public pension fund or plan under section ~~473.141, subdivision 12,~~ ~~or~~ 473.415, subdivision 3;

(14) judges of the tax court; and

(15) personnel employed on June 30, 1992, by the University of Minnesota in the management, operation, or maintenance of its heating plant facilities, whose employment transfers to an employer assuming operation of the heating plant facilities, so long as the person is employed at the University of Minnesota heating plant by that employer or by its successor organization.

(b) Employees specified in paragraph (a), clause (15), are included employees under paragraph (a) providing that employer and employee contributions are made in a timely manner in the amounts required by section 352.04. Employee contributions must be deducted from salary. Employer contributions are the sole obligation of the employer assuming operation of the University of Minnesota heating plant facilities or any successor organizations to that employer.

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Presented to the governor May 19, 1995

Signed by the governor May 22, 1995, 7:38 p.m.

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CHAPTER 196—S.F.No. 537

VETOED

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CHAPTER 197—H.F.No. 431

VETOED

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CHAPTER 198—H.F.No. 1132

*An act relating to alcoholic beverages; providing restrictions on brewers who have retail on-sale licenses; imposing licensing and permitting requirements; requiring a license for charging for possession of alcoholic beverages; requiring a permit to allow consumption and display of all alcoholic beverages; authorizing additional licenses in Minneapolis; authorizing Clay, Stearns, and St. Louis counties and the city of International Falls to issue on-sale licenses; requiring a study of application of primary source law; defining home brewing equipment; listing items that may be sold in exclusive liquor stores; repealing requirement for permit for transportation of alcoholic beverages; amending Minnesota Statutes 1994, sections 340A.101, subdivisions 10, 25, and by adding a subdivision; 340A.301, subdivisions 6 and 7; 340A.401; 340A.404, subdivision 2, and by adding a subdivision; 340A.412, by adding a subdivision; and 340A.414, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 340A; repealing Minnesota Statutes 1994, sections 340A.301, subdivision 10; and 340A.32.*

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

Section 1. Minnesota Statutes 1994, section 340A.101, subdivision 10, is amended to read:

Subd. 10. **EXCLUSIVE LIQUOR STORE.** "Exclusive liquor store" is an establishment used exclusively for the sale of intoxicating liquor ~~except for the incidental sale of ice, tobacco, 3.2 percent malt liquor, beverages for mixing with intoxicating liquor, soft drinks, liqueur-filled candies, cork extraction devices, and books and videos on the use of alcoholic beverages in the preparation of food; and the establishment may offer recorded or live entertainment.~~ "Exclusive liquor store" also includes an on-sale or combination on-sale and off-sale intoxicating liquor establishment which sells food for on-premise consumption

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