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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 3092

03/17/2014 Authored by Scott, Gruenhagen and Lohmer
The bill was read for the first time and referred to the Committee on Government Operations

1.1 A bill for an act
1.2 relating to the Metropolitan Council; prohibiting the use of eminent domain;
1.3 amending Minnesota Statutes 2012, sections 473.129, subdivision 7; 473.405,
1.4 subdivision 5; 473.411, subdivisions 3, 4; 473.504, subdivision 9; 473.516,
1.5 subdivision 1; repealing Minnesota Statutes 2012, section 473.405, subdivisions
1.6 3, 9.

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

1.8 Section 1. Minnesota Statutes 2012, section 473.129, subdivision 7, is amended to read:

1.9 Subd. 7. **Property; no eminent domain.** The council may acquire, own, hold,
1.10 use, improve, operate, maintain, lease, exchange, transfer, sell, or otherwise dispose of
1.11 personal or real property, franchises, easements, or property rights or interests of any kind.
1.12 Notwithstanding any other provision in law that authorizes the council to acquire property
1.13 by eminent domain, the council must not use eminent domain unless a law authorizing
1.14 its use for a specific project is enacted. The council must not acquire property from any
1.15 other entity that used eminent domain to acquire the property within ten years of the
1.16 proposed transfer to the council.

1.17 Sec. 2. Minnesota Statutes 2012, section 473.405, subdivision 5, is amended to read:

1.18 Subd. 5. **Acquisition of transit systems.** The council may acquire by purchase,
1.19 lease, ~~or gift, or condemnation proceedings~~ any existing public transit system or any part
1.20 thereof, including all or any part of the plant, equipment, shares of stock, property, real,
1.21 personal, or mixed, rights in property, reserve funds, special funds, franchises, licenses,
1.22 patents, permits and papers, documents and records belonging to any operator of a public
1.23 transit system within the metropolitan area, and may in connection therewith assume any
1.24 or all liabilities of any operator of a public transit system. ~~The council may take control of~~

2.1 ~~and operate a system immediately following the filing and approval of the initial petition~~
 2.2 ~~for condemnation, if the council, in its discretion, determines this to be necessary, and~~
 2.3 ~~may take possession of all right, title and other powers of ownership in all properties~~
 2.4 ~~and facilities described in the petition. Control must be taken by resolution which is~~
 2.5 ~~effective upon service of a copy on the condemnee and the filing of the resolution in~~
 2.6 ~~the condemnation action. In the determination of the fair value of the existing public~~
 2.7 ~~transit system, there must not be included any value attributable to expenditures for~~
 2.8 ~~improvements made by the former Metropolitan Transit Commission or council.~~

2.9 The council may continue or terminate within three months of acquisition any
 2.10 advertising contract in existence by and between any advertiser and a transit system that
 2.11 the council has acquired. If the council determines to terminate the advertising contract,
 2.12 it shall acquire all of the advertiser's rights under the contract by purchase or eminent
 2.13 domain proceedings as provided by law.

2.14 Sec. 3. Minnesota Statutes 2012, section 473.411, subdivision 3, is amended to read:

2.15 Subd. 3. **Services of Department of Transportation.** The council may make
 2.16 use of engineering and other technical and professional services, including regular staff
 2.17 and qualified consultants, which the commissioner of transportation can furnish, upon
 2.18 fair and reasonable reimbursement for the cost thereof; provided, that the council has
 2.19 final authority over the employment of any services from other sources which it may
 2.20 deem necessary for such purposes. The commissioner of transportation may furnish all
 2.21 engineering, legal, and other services, if so requested by the council and upon fair and
 2.22 reasonable reimbursement for the cost thereof by the council, for the purposes stated in
 2.23 this subdivision, including the acquisition by purchase, ~~condemnation~~, or otherwise in the
 2.24 name of the council of all lands, waters, easements, or other rights or interests in lands or
 2.25 waters required by the council. No purchase of service agreements may be made under
 2.26 this subdivision which are not included in the budget of the council.

2.27 Sec. 4. Minnesota Statutes 2012, section 473.411, subdivision 4, is amended to read:

2.28 Subd. 4. **State highways; joint use for transit and highway purposes.** Wherever
 2.29 the joint construction or use of a state highway is feasible in fulfilling the purposes
 2.30 of sections 473.405 to 473.449, the council shall enter into an agreement with the
 2.31 commissioner of transportation therefor, evidenced by a memorandum setting forth the
 2.32 terms of the agreement. Either the council or the commissioner of transportation may
 2.33 acquire any additional lands, waters, easements or other rights or interests required for joint
 2.34 use in accordance with the agreement, ~~or joint acquisition may be made by condemnation~~

3.1 ~~as provided by section 117.016 and the provisions of sections 473.405 to 473.449.~~ Under
 3.2 the agreement each party shall pay to the other party reasonable compensation for the costs
 3.3 of any services performed at the request of the other party which may include any costs of
 3.4 engineering, design, acquisition of property, construction of the facilities, and for the use
 3.5 thereof so far as attributable to and necessary for the purposes. The council may not agree
 3.6 to acquisitions or expenditures under this subdivision which are not included in its budget.

3.7 Sec. 5. Minnesota Statutes 2012, section 473.504, subdivision 9, is amended to read:

3.8 Subd. 9. **May get property.** The council may acquire by purchase, lease,
 3.9 ~~condemnation,~~ gift, or grant, any real or personal property including positive and negative
 3.10 easements and water and air rights, and it may construct, enlarge, improve, replace, repair,
 3.11 maintain, and operate any interceptor or treatment works determined to be necessary
 3.12 or convenient for the collection and disposal of sewage in the metropolitan area. Any
 3.13 local government unit and the commissioners of transportation and natural resources are
 3.14 authorized to convey to or permit the use of any such facilities owned or controlled by it
 3.15 by the council, subject to the rights of the holders of any bonds issued with respect thereto,
 3.16 with or without compensation, without an election or approval by any other government
 3.17 agency. All powers conferred by this subdivision may be exercised both within or without
 3.18 the metropolitan area as may be necessary for the exercise by the council of its powers or
 3.19 the accomplishment of its purposes. The council may hold such property for its purposes,
 3.20 and may lease any such property so far as not needed for its purposes, upon such terms and
 3.21 in such manner as it shall deem advisable. ~~Unless otherwise provided, the right to acquire~~
 3.22 ~~lands and property rights by condemnation shall be exercised in accordance with chapter~~
 3.23 ~~117, and shall apply to any property or interest therein owned by any local government~~
 3.24 ~~unit; provided, that no such property devoted to an actual public use at the time, or held to~~
 3.25 ~~be devoted to such use within a reasonable time, shall be so acquired unless a court of~~
 3.26 ~~competent jurisdiction shall determine that the use proposed by the board is paramount to~~
 3.27 ~~such use. Except in case of property in actual public use, the council may take possession~~
 3.28 ~~of any property for which condemnation proceedings have been commenced at any time~~
 3.29 ~~after the issuance of a court order appointing commissioners for its condemnation.~~

3.30 Sec. 6. Minnesota Statutes 2012, section 473.516, subdivision 1, is amended to read:

3.31 Subdivision 1. **Acquisition and operation.** Without limiting the grant or
 3.32 enumeration of any of the powers conferred on the council under sections 473.501
 3.33 to 473.549, the council shall have the specific power to acquire by purchase, lease,
 3.34 ~~condemnation,~~ gift or grant any real or personal property, positive and negative easements

4.1 and water and air rights, and it may construct, enlarge, improve, replace, repair, maintain
4.2 and operate waste facilities in the metropolitan area deemed to be necessary or convenient
4.3 in connection with the processing or disposal of waste resulting from sewage treatment,
4.4 and the council may contract for the maintenance and operation of such waste facilities,
4.5 subject to the bidding requirements of section 473.523. The council may accept for
4.6 processing waste derived from outside the metropolitan area in the state, as well as waste
4.7 derived from within the metropolitan area, and may fix and collect fees and charges for the
4.8 acceptance of waste as the council determines to be reasonable.

4.9 **Sec. 7. REPEALER.**

4.10 Minnesota Statutes 2012, section 473.405, subdivisions 3 and 9, are repealed.

4.11 **Sec. 8. APPLICATION.**

4.12 This act applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey,
4.13 Scott, and Washington.

473.405 POWERS.

Subd. 3. **Condemnation.** The council may for transit purposes acquire property, franchises, easements, or property rights or interests of any kind by condemnation proceedings pursuant to chapter 117. Except as provided in subdivision 9, the council 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. The council may contract with an operator or other persons for the use by the operator or person of any property under the council's control.

Subd. 9. **Condemnation of public or public service corporation property.** The fact that property is owned by or is in charge of a public agency or a public service corporation organized for a purpose specified in section 301B.01, or is already devoted to a public use or to use by the corporation or was acquired therefor by condemnation may not prevent its acquisition by the council by condemnation, but if the property is in actual public use or in actual use by the corporation for any purpose of interest or benefit to the public, the taking by the council by condemnation may not be authorized unless the court finds and determines that there is greater public necessity for the proposed use by the council than for the existing use.