

CHAPTER 472B

MINED UNDERGROUND SPACE DEVELOPMENT ACT

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472B.01 POPULAR NAME.

Sections 472B.01 to 472B.08 may be cited as the "mined underground space development act."

History: 1985 c 194 s 1

472B.02 POLICY.

The legislature finds that many subsurface areas of the state have a largely undeveloped potential to be mined for the development of underground space. The development and redevelopment of mined underground space makes use of the state's special geologic resources, fosters wise land use, especially in built-up urban areas, encourages commercial and industrial development, increases employment opportunities, enhances the tax base, contributes to the preservation of agricultural and other open lands, permits more energy efficient development and promotes and protects the public welfare. The legislature finds that these underground spaces provide an exceptionally stable environment and may therefore be particularly attractive to such clean industries as high technology and warehousing companies.

Therefore, the legislature finds that it is in the public interest to authorize municipalities to encourage, promote, and enable both public and private development of mined underground space and to authorize municipalities to protect both subsurface areas potentially suitable for development and existing mined underground space.

History: 1985 c 194 s 2

472B.03 DEFINITIONS.

Subdivision 1. **Terms defined.** For the purposes of this chapter, the terms defined in this section have the meanings given them.

Subd. 2. **Authority.** "Authority" means an authority, as defined in section 273.73.

Subd. 3. **Mined underground space.** "Mined underground space" means space resulting from, or which will result from, the excavation of subsurface areas by underground mining methods and having limited access from and to the surface and the supporting material surrounding the space.

Subd. 4. **Mined underground space development.** "Mined underground space development" means the development or redevelopment of mined underground space for commercial, industrial, and other public and private use, but shall not include the development or redevelopment of mined underground space for long-term storage or disposal of hazardous waste or high level nuclear waste.

Subd. 5. **Municipality.** "Municipality" means a home rule charter or statutory city.

Subd. 6. **Project.** "Project" means a project encompassing mined underground space development.

Subd. 7. **Project costs.** "Project costs" mean all costs and estimated costs incurred and to be incurred by a municipality or by any other person in connection with the acquisition, construction, reconstruction, improvement, betterment, and extension of a project, including all engineering, architectural, legal, fiscal, and administrative fees and expenses, interest on money borrowed to pay project costs during construction and for a period up to six months thereafter, title insurance premiums, rating agency fees, printing expenses, underwriters' commission or discount, bond insurance or other credit enhancement premiums or fees, bond trustee fees, and, as to bonds which are not general obligation bonds, a debt service reserve.

Subd. 8. **Property rights.** The words "interest in land," "land," "property," "property right," "property interest," and other terms describing real property shall include within their meaning, but not be limited to, airspace necessary for the development of projects in subsurface areas.

History: 1985 c 194 s 3

472B.04 POWERS OF MUNICIPALITY.

A municipality may, to accomplish the purposes of this chapter:

(1) exercise any or all powers enumerated in chapter 458, but only if the municipality has been granted authority to exercise the powers enumerated in chapters 458, 462, 472, 472A, and 474, in conjunction with the powers granted by this chapter;

(2) provide public facilities pursuant to chapters 429, 430, and any charter provision or any special law;

(3) acquire, by lease, purchase, gift, condemnation, or otherwise, land or interests in land, and convey land or interests in land. A municipality is empowered to acquire by condemnation any property, property right or interest in property, corporate or incorporeal, within its boundaries which may be needed by it for a project, for access, including surface and subsurface access, for ventilation, or for any other purpose which it finds by resolution to be needed by it in connection with mined underground space development; and the fact that the property or interest in property so needed has been acquired by the owner under the power of eminent domain, or is already devoted to a public use, or is owned by the University of Minnesota, any city, county, school district, town, other municipality, or other governmental subdivision, railroad, or public or private utility, shall not prevent its acquisition by the municipality by the exercise of the right of eminent domain hereby conferred, provided the existing use thereof is not impaired; the necessity of the taking of any property or interest in property by the municipality shall be determined by resolution duly adopted by the governing body of the municipality, which shall describe the property or interest as nearly as it may be described and state the use and purpose to which it is to be devoted; except as otherwise provided in this chapter, the right of eminent domain shall be exercised in accordance with chapter 117, provided that any exercise of the right of eminent domain hereby conferred shall not be for the purpose of preventing the development, mining, and use of mineral resources;

(4) acting alone or with others, acquire, purchase, construct, lease, mortgage, maintain, operate, and convey projects;

(5) borrow money to carry out the purposes of this chapter;

(6) enter into contracts, sue and be sued and do or accomplish all other acts and things necessary or convenient to carry out the purposes and policies of this chapter; and

(7) exercise bonding authority as provided in section 472B.05.

History: 1985 c 194 s 4

472B.05 BONDING AUTHORITY.

A municipality may by resolution of its governing body authorize the issuance of bonds to provide funds for payment of project costs incurred and to be incurred in the acquisition or betterment of projects, or for refunding any outstanding bonds issued by it for any such purpose, and may pledge to the payment of the bonds and the interest thereon, its full faith, credit, and taxing powers, or the proceeds of any designated tax levies, or the gross or net revenues to be derived from any project operated by or for the municipality, or any combination thereof. Taxes levied for the payment of the bonds and interest shall not reduce the amounts of other taxes which the municipality is authorized or required by law to levy. Bonds issued pursuant to this section may be sold at public or private sale upon such conditions as the governing body of the municipality shall determine, except that any bonds to which the full faith and credit and taxing powers of the municipality are pledged shall be sold in accordance with the provisions of section 475.60.

History: 1985 c 194 s 5

472B.06 DELEGATION BY MUNICIPALITY.

Any or all of the powers provided in sections 472B.04 and 472B.05 may be exercised by the governing body of a municipality. Alternatively, the governing body of a municipality may, by ordinance or resolution, delegate to an authority any or all of the powers provided in sections 472B.04 and 472B.05. Any ordinance or resolution delegating powers to an authority shall specify the powers delegated and any conditions to that delegation. Any power not expressly delegated to the authority may not be exercised by the authority, but may be exercised by the governing body of the municipality. To the extent a power is delegated to an authority, any action of the governing body of the authority shall be considered to be the action of the governing body of the municipality. The governing body of a municipality may at any time by ordinance or resolution, whichever was used to delegate powers to an authority, repeal, rescind, or revoke any or all of the powers previously delegated to an authority, but the municipality remains liable for all actions previously taken and contracts previously made by the authority.

History: 1985 c 194 s 6

472B.07 PROJECTS DESCRIBED IN CHAPTER 474.

If and to the extent any project proposed to be undertaken by a municipality also constitutes a project as defined in section 474.02, the provisions of chapter 474 shall be applicable to the undertaking and financing of that project by the municipality, except that to the extent the governing body of a municipality has delegated powers to an authority as provided in section 472B.06 those powers may be exercised under chapter 474 by the authority.

History: 1985 c 194 s 7

472B.08 REGULATION OF DRILLING TO PROTECT MINED UNDERGROUND SPACE DEVELOPMENT.

Subdivision 1. Department of natural resources review. The department of natural resources shall review all project plans which involve dewatering of underground formations for construction and operation of mined underground space to determine the effects of the proposal on the quality and quantity of underground waters in and adjacent to the areas where the mined underground space is to be developed.

Subd. 2. Power to regulate. Municipalities may regulate all drilling, except water well and exploratory drilling which is subject to the provisions of sections 156A.01 to 156A.10, above, in, through, and adjacent to subsurface areas designated for mined underground space development and existing mined underground space. The regulations may prohibit, restrict, control, and require permits for such drilling.

Subd. 3. Water well regulation. With respect to water wells as defined in section 156A.02, municipalities may prohibit, restrict, control, and require permits for water well drilling, but the construction and abandonment of water wells is governed by sections 156A.01 to 156A.10.

Subd. 4. Permits for water removal. No mined underground space project involving or affecting the quality and quantity of underground waters may be developed until a permit for the appropriation of waters pursuant to section 105.41, has been granted by the commissioner of natural resources.

History: 1985 c 194 s 8