

Metropolitan Areas

CHAPTER 473

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473.01 [Repealed, 1986 c 460 s 59]
473.02 [Repealed, 1986 c 460 s 59]
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473.09 [Repealed, 1986 c 460 s 59]
473.10 [Repealed, 1986 c 460 s 59]
473.11 [Repealed, 1986 c 460 s 59]

DEFINITIONS

473.121 DEFINITIONS.

Subdivision 1. For the purposes of this chapter, the terms defined in this section have the meanings given them in this section, except as otherwise expressly provided or indicated by the context.

Subd. 2. "Metropolitan area" or "area" means the area over which the metropolitan council has jurisdiction, including only the counties of Anoka, Carver, Dakota, excluding the city of Northfield, Hennepin excluding the city of Hanover, Ramsey, Scott excluding the city of New Prague, and Washington.

Subd. 3. "Metropolitan council" or "council" means the metropolitan council established by section 473.123.

Subd. 4. "Metropolitan county" means any one of the following counties: Anoka, Carver, Dakota, Hennepin, Ramsey, Scott or Washington.

Subd. 5. "State agency" means the state of Minnesota or any agency, board, commission, department or educational institution thereof.

Subd. 5a. "Metropolitan agency" means the metropolitan parks and open space commission, regional transit board, metropolitan transit commission, metropolitan waste control commission, metropolitan airports commission, and metropolitan sports facilities commission.

Subd. 6. "Local governmental unit" means any county, city, town, school district, special district or other political subdivisions or public corporation, other than the council or a metropolitan agency, lying in whole or part within the metropolitan area.

Subd. 7. [Repealed, 1986 c 460 s 59]

Subd. 8. "Metropolitan significance" means a status determined by the metropolitan council pursuant to the rules and procedures established by section 473.173.

Subd. 9. [Repealed, 1986 c 460 s 59]

Subd. 10. "Policy plan" means a long-range comprehensive plan of the metropolitan council.

Subd. 11. "Independent commission, board or agency" means governmental entities with jurisdictions lying in whole or in part within the metropolitan area but not including agencies that are subject to the requirements of section 473.161.

Subd. 12. "Metropolitan parks and open space commission" means the commission established in sections 473.302 to 473.341.

Subd. 13. "Park district" means a park district created under chapter 398.

Subd. 14. "Regional recreation open space" means land and water areas, or interests therein, and facilities determined by the metropolitan council to be of regional importance in providing for a balanced system of public outdoor recreation for the metropolitan area, including but not limited to park reserves, major linear parks and trails, large recreation parks, and conservatories, zoos, and other special use facilities.

Subd. 14a. "Regional transit board" or "transit board" means the regional transit board created by section 473.373.

Subd. 15. "Metropolitan transit commission" or "transit commission" means the metropolitan transit commission created in section 473.404.

Subd. 16. "Metropolitan transit area" means the metropolitan area.

Subd. 17. [Repealed, 1977 c 454 s 49]

Subd. 18. "Operator" means any person engaged or seeking to engage in the business of providing regular route public transit.

Subd. 18a. "Paratransit" has the meaning given in section 174.22, subdivision 6.

Subd. 19. "Public transit" or "transit" has the meaning given in section 174.22, subdivision 7.

Subd. 20. "Public transit system" or "transit system" means, without limitation, a combination of property, structures, improvements, equipment, plants, parking or other facilities, and rights, or any thereof, used or useful for the purposes of public transit.

Subd. 20a. "Regular route transit" has the meaning given in section 174.22, subdivision 8.

Subd. 21. "Metropolitan waste control commission" means the commission established in sections 473.501 to 473.549.

Subd. 22. "Acquisition" and "betterment" shall have the meanings given to them in chapter 475.

Subd. 23. "Interceptor" means any sewer and necessary appurtenances thereto, including but not limited to mains, pumping stations, and sewage flow regulating and measuring stations, which is designed or used to conduct sewage originating in more than one local government unit, or which is designed or used to conduct all or substantially all of the sewage originating in a single local government unit from a point of collection in that unit to an interceptor or treatment works outside that unit.

Subd. 24. "Metropolitan disposal system" means any or all of the interceptors or treatment works owned or operated by the metropolitan waste control commission.

Subd. 25. "Pollution", "sewer system", "treatment works", "disposal system", and "waters of the state" shall have the meanings given them in section 115.01.

Subd. 26. "Sewage" means all liquid or water-carried waste products from whatever source derived, together with such ground water infiltration and surface water as may be present.

Subd. 27. [Repealed, 1980 c 564 art 13 s 2]

Subd. 28. [Repealed, 1980 c 564 art 13 s 2]

Subd. 29. [Repealed, 1980 c 564 art 13 s 2]

Subd. 30. MS 75 Supp [Repealed, 1976 c 179 s 20]

Subd. 31. [Repealed, 1980 c 564 art 13 s 2]

Subd. 31a. [Repealed, 1980 c 564 art 13 s 2]

Subd. 31b. [Repealed, 1980 c 564 art 13 s 2]

Subd. 31c. [Repealed, 1980 c 564 art 13 s 2]

Subd. 32. "Metropolitan airports commission" means the commission established in sections 473.601 to 473.679.

Subd. 33. "Major airport" means any airport now or which may hereafter be operated by the metropolitan airports commission as a terminal for regular, scheduled air passenger service.

Subd. 34. "Aeronautics" means the transportation by aircraft, the operation, construction, repair, or maintenance of aircraft, aircraft power plants and accessories, including the repair, packing and maintenance of parachutes; the design, establishment, construction, operation, improvement, repair, or maintenance of airports, restricted landing areas, or other air navigation facilities and air instruction, and powers incidental thereto.

Subd. 35. "Airport" means any locality, either of land or water, including intermediate landing fields, which is used or intended to be used for the landing and take off of aircraft, whether or not facilities are provided for the shelter, servicing, or repair of aircraft, or for receiving or discharging passengers or cargo, and also includes any facility used in, available for use in, or designed for use in, aid of air navigation, including, but without limitation, landing areas, lights, any apparatus or equipment for disseminating weather information, for signaling, for radio-directional finding, or for radio or other electrical communication, and any other structure or mechanism having a similar purpose for guiding or controlling flight in the air or the landing and take off of aircraft, and also includes, but without limitation, access roads, parking areas, railroad siding facilities, such land contiguous or not as may be required for installations necessary for safe and efficient operation, buildings, structures, hangars, shops and any personal property usually used in connection with the operations of such airports, including specifically, but not exclusively, snow removal or impacting equipment, fire and ambulance equipment, motor vehicles and equipment for buildings, structures, hangars, and shops. It includes any area heretofore in the statutes of this state termed an "airport" or a "flying field."

Subd. 36. The definitions of terms relating to waste in chapter 116 and section 115A.03, also apply to the same terms relating to waste used in this chapter.

History: 1975 c 13 s 1; 1976 c 127 s 24; 1976 c 179 s 1-6; 1977 c 347 s 68; 1977 c 421 s 6; 1977 c 454 s 29-32; 1978 c 543 s 1; 1980 c 378 s 1; 1980 c 564 art 10 s 1; 1983 c 330 s 1; 1984 c 654 art 3 s 101-107; 1985 c 248 s 70; 1986 c 460 s 1-3; 1987 c 384 art 2 s 1

METROPOLITAN COUNCIL

473.122 PURPOSE.

In order to coordinate the planning and development of the metropolitan area comprising the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington, it is in the public interest to create an administrative agency for that purpose.

History: 1975 c 13 s 2

473.123 METROPOLITAN COUNCIL.

Subdivision 1. Creation. A metropolitan council with jurisdiction in the metropolitan area is created. It shall be under the supervision and control of 17 members, all of whom shall be residents of the metropolitan area.

Subd. 2. [Repealed, 1983 c 16 s 15]

Subd. 2a. Terms. Following each apportionment of council districts, as provided under subdivision 3a, council members must be appointed from newly drawn districts as provided in subdivision 3a. The terms of members are as follows: members representing even-numbered districts for terms ending the first Monday in January of the year ending in the numeral "7"; members representing odd-numbered districts for terms ending the first Monday in January of the year ending in the numeral "5." Thereafter the term of each member is four years, with terms ending the first Monday in January, except that all terms expire on the effective date of the next apportionment.

A member shall continue to serve the member's district until a successor is appointed and qualified; except that, following each apportionment, the member shall continue to serve at large until the governor appoints 16 council members, one from each of the newly drawn council districts as provided under subdivision 3a, to serve terms as provided under this section. The appointment to the council must be made by the first Monday in March of the year in which the term ends.

Subd. 3. Membership; appointment; qualifications. (a) Sixteen members must be appointed by the governor from districts defined by this section. Each council member must reside in the council district represented. Each council district must be represented by one member of the council.

(b) In addition to the notice required by section 15.0597, subdivision 4, notice of vacancies and expiration of terms must be published in newspapers of general circulation in the metropolitan area and the appropriate districts. The governing bodies of the statutory and home rule charter cities, counties, and towns having territory in the district for which a member is to be appointed must be notified in writing. The notices must describe the appointments process and invite participation and recommendations on the appointment.

(c) The governor shall create a nominating committee, composed of seven metropolitan citizens appointed by the governor, to nominate persons for appointment to the council from districts. Three of the committee members must be local elected officials. Following the submission of applications as provided under section 15.0597, subdivision 5, the nominating committee shall conduct public meetings, after appropriate notice, to accept statements from or on behalf of persons who have applied or been nominated for appointment and to allow consultation with and secure the advice of the public and local elected officials. The committee shall hold the meeting on each appointment in the district or in a reasonably convenient and accessible location in the part of the metropolitan area in which the district is located. The committee may consolidate meetings. Following the meetings, the committee shall submit to the governor a list of nominees for each appointment. The governor is not required to appoint from the list.

(d) Before making an appointment, the governor shall consult with all members of the legislature from the council district for which the member is to be appointed.

(e) Appointments to the council are subject to the advice and consent of the senate as provided in section 15.066.

(f) Members of the council must be appointed to reflect fairly the various demographic, political, and other interests in the metropolitan area and the districts.

(g) Members of the council must be persons knowledgeable about urban and metropolitan affairs.

Subd. 3a. Apportionment. The legislature shall redraw the boundaries of the council districts after each decennial federal census so that each district has substantially equal population. Redistricting is effective on the first Monday in January in the year ending in the numeral "3." By the first Monday in March of that year, the governor shall appoint members from the newly drawn districts to serve terms as provided under subdivision 2a.

Subd. 3b. District boundaries. The council district boundaries are as follows:

(1) The first council district consists of that part of the city of St. Paul lying north of a line described as follows: commencing at the intersection of the western boundary of the city of St. Paul and Marshall Avenue, easterly on Marshall Avenue to Cretin Avenue North, northerly on Cretin Avenue North to Iglehart Avenue, easterly on Iglehart Avenue to Cleveland Avenue North, southerly on Cleveland Avenue North to Marshall Avenue, easterly on Marshall Avenue to Hamline Avenue, northerly on Hamline Avenue to University Avenue, easterly on University Avenue to Lexington Parkway, northerly on Lexington Parkway to Lafond Avenue, easterly on Lafond Avenue to North Victoria Street, northerly on North Victoria Street to Blair Avenue, easterly on Blair Avenue to Como Avenue, southeasterly on Como Avenue to Lafond

Avenue, easterly on Lafond Avenue to Rice Street, southerly on Rice Street to Como Avenue, easterly on Como Avenue to Capitol Heights Boulevard, southerly on Capitol Heights Boulevard to Valley Street, easterly on Valley Street to Jackson Street, northeasterly on Jackson Street to Pennsylvania Avenue, easterly and southeasterly on Pennsylvania Avenue to Interstate Highway 35E, southerly on Interstate Highway 35E to Grove Street, easterly on Grove Street to Willius Street, southeasterly on Willius Street to East 7th Street, northeasterly on East 7th Street to Mounds Boulevard, southeasterly on Mounds Boulevard to East 6th Street, northeasterly and easterly on East 6th Street to Johnson Parkway, northerly on Johnson Parkway to East Minnehaha Avenue, and easterly on East Minnehaha Avenue to the eastern boundary of the city of St. Paul.

(2) The second council district consists of that part of the city of St. Paul not included in council districts 1 and 15.

(3) The third council district consists of that part of the county of Ramsey consisting of the cities of Maplewood, North St. Paul, Little Canada, Roseville, Falcon Heights, Lauderdale, St. Anthony, and New Brighton; and that part of the city of St. Anthony lying in Hennepin county.

(4) The fourth council district consists of that part of the city of Minneapolis located within an area described as follows: commencing at the intersection of West 50th Street and Nicollet Avenue South, northerly on Nicollet Avenue South to Lake Street, easterly on Lake Street to 1st Avenue South, northerly on 1st Avenue South to East 19th Street, easterly on East 19th Street to Stevens Avenue South, northerly on Stevens Avenue South to East 18th Street, easterly on East 18th Street to 3rd Avenue South, northerly on 3rd Avenue South to East 16th Street, easterly on East 16th Street to 4th Avenue South, northerly on 4th Avenue South to South 11th Street, southeasterly on South 11th Street to Grant Street, easterly on Grant Street to Portland Avenue, northeasterly on Portland Avenue and an extension of Portland Avenue to the main channel of the Mississippi River, southeasterly along the main channel of the Mississippi River to an extension of Cedar Avenue South, northerly on Cedar Avenue South and its extension to the Burlington Northern, Inc. railroad tracks, northeasterly along the southern branch of the Burlington Northern, Inc. railroad tracks to University Avenue Southeast, southeasterly on University Avenue Southeast to 26th Avenue Southeast, southwesterly on 26th Avenue Southeast to Essex Street, northwesterly on Essex Street to Huron Street, southerly on Huron Street to Interstate Highway 94, southeasterly on Interstate Highway 94 to East Franklin Avenue, easterly on East Franklin Avenue to the eastern boundary of the city of Minneapolis, southerly along the eastern boundary of the city of Minneapolis to an extension of East 54th Street, westerly on East 54th Street and its extension to 27th Avenue South, northerly on 27th Avenue South to East 50th Street, easterly on East 50th Street to 28th Avenue South, northerly on 28th Avenue South to East Minnehaha Parkway, westerly on East Minnehaha Parkway to 16th Avenue South, northerly on 16th Avenue South to East 48th Street, westerly on East 48th Street to Chicago Avenue, southerly on Chicago Avenue to East 50th Street, westerly on East 50th Street to the point of origin.

(5) The fifth council district consists of that part of the city of Minneapolis not included in council districts 4 and 6.

(6) The sixth council district consists of that part of the city of Minneapolis lying north of a line described as follows: commencing at the intersection of the western boundary of the city of Minneapolis and Chestnut Avenue, easterly on Chestnut Avenue to Penn Avenue South, southerly on Penn Avenue South to Hawthorne Avenue, easterly on Hawthorne Avenue to Cedar Lake Road, northeasterly on Cedar Lake Road to the Burlington Northern, Inc. railroad tracks, southeasterly and northeasterly along the Burlington Northern, Inc. railroad tracks to Interstate Highway 94, southerly on Interstate Highway 94 to Hennepin Avenue, northeasterly on Hennepin Avenue to South 13th Street, southeasterly on South 13th Street and an extension of South 13th Street to LaSalle Avenue, southerly on LaSalle Avenue to Grant Street, easterly on Grant Street to 4th Avenue South, northerly on 4th Avenue South to South

11th Street, southeasterly on South 11th Street to Grant Street, easterly on Grant Street to Portland Avenue, northeasterly on Portland Avenue and an extension of Portland Avenue to the main channel of the Mississippi River, southeasterly along the main channel of the Mississippi River to an extension of Cedar Avenue South, northerly on Cedar Avenue South and its extension to the Burlington Northern, Inc. railroad tracks, northeasterly along the southern branch of the Burlington Northern, Inc. railroad tracks to University Avenue Southeast, southeasterly on University Avenue Southeast to 26th Avenue Southeast, southwesterly on 26th Avenue Southeast to Essex Street, northwesterly on Essex Street to Huron Street, southerly on Huron Street to Interstate Highway 94, southeasterly on Interstate Highway 94 to East Franklin Avenue, easterly on East Franklin Avenue to the eastern boundary of the city of Minneapolis.

(7) The seventh council district consists of that part of the county of Ramsey consisting of the cities of Mounds View, Shoreview, North Oaks, Arden Hills, Vadnais Heights, Gem Lake, and White Bear Lake, and the township of White Bear; that part of the county of Anoka consisting of the cities of Centerville and Lino Lakes; that part of the county of Washington consisting of the cities of Forest Lake, Marine-on-St. Croix, Hugo, Dellwood, Mahtomedi, Birchwood, Willernie, Pine Springs, and Stillwater, and the townships of Forest Lake, New Scandia, May, Grant, and Stillwater; and that part of the city of White Bear Lake lying in Washington county.

(8) The eighth council district consists of that part of the county of Anoka consisting of the cities of Columbia Heights, Hilltop, Fridley, Spring Lake Park, Coon Rapids, Blaine, Lexington, and Circle Pines; and those parts of the cities of Blaine and Spring Lake Park lying in Ramsey county.

(9) The ninth council district consists of that part of the county of Anoka consisting of the cities of St. Francis, Bethel, East Bethel, Ramsey, Andover, Ham Lake, and Anoka, and the townships of Burns, Oak Grove, Linwood, and Columbus; and that part of the county of Hennepin consisting of the cities of Dayton, Champlin, Maple Grove, Plymouth, and Medicine Lake.

(10) The 10th council district consists of that part of the county of Hennepin consisting of the cities of Brooklyn Park, Brooklyn Center, Osseo, New Hope, and Crystal.

(11) The 11th council district consists of that part of the county of Hennepin consisting of the cities of Robbinsdale, Golden Valley, St. Louis Park, and Edina.

(12) The 12th council district consists of that part of the county of Hennepin consisting of the cities of Bloomington and Richfield; and the Fort Snelling Military Reservation.

(13) The 13th council district consists of that part of the county of Hennepin consisting of the cities of Eden Prairie, Hopkins, Minnetonka, Wayzata, Woodland, Deephaven, Greenwood, Excelsior, Shorewood, Tonka Bay, Minnetonka Beach, Spring Park, Orono, Long Lake, Mound, Minnetrista, St. Bonifacius, Maple Plain, Independence, Loretto, Medina, Corcoran, Greenfield, and Rogers, and the township of Hassan; and those parts of the cities of Hanover and Rockford lying in Hennepin county.

(14) The 14th council district consists of the counties of Carver and Scott, excluding the city of New Prague; that part of the county of Dakota consisting of the cities of Burnsville and Lakeville; and that part of the city of Chanhassen lying in Hennepin county.

(15) The 15th council district consists of that part of the county of Dakota consisting of the cities of Lilydale, Mendota, Mendota Heights, Eagan, Sunfish Lake, West St. Paul, South St. Paul, and Inver Grove Heights; that part of the county of Washington consisting of the city of Newport; and that part of the city of St. Paul lying south and west of a line described as follows: commencing at the intersection of the western boundary of the city of St. Paul and an extension of St. Clair Avenue, easterly on St. Clair Avenue and its extension to Wheeler Street South, southerly on Wheeler Street South to James Avenue, easterly on James Avenue to Snelling Avenue South, northerly on Snelling Avenue South to Palace Avenue, easterly on Palace Avenue to

South Pascal Street, southerly on South Pascal Street to James Avenue, easterly on James Avenue to Lexington Parkway, southerly on Lexington Parkway to Randolph Avenue, easterly on Randolph Avenue to proposed Interstate Highway 35E, southerly and southeasterly on proposed Interstate Highway 35E to the southern boundary of the city of St. Paul.

(16) The 16th council district consists of that part of the county of Dakota consisting of the cities of Apple Valley, Rosemount, Hastings, Farmington, Coates, Vermillion, Hampton, New Trier, Randolph, and Miesville, and the townships of Nininger, Ravenna, Marshan, Vermillion, Empire, Eureka, Castle Rock, Hampton, Douglas, Greenvale, Waterford, Sciota, and Randolph; that part of the county of Washington consisting of the cities of Oakdale, Lake Elmo, Landfall, Woodbury, St. Paul Park, Cottage Grove, Oak Park Heights, Bayport, Lakeland, Lakeland Shores, Lake St. Croix Beach, St. Mary's Point, and Afton, and the townships of Grey Cloud Island, Baytown, West Lakeland, and Denmark; and that part of the city of Hastings lying in Washington County.

Subd. 4. Chair; appointment, duties. (a) The chair of the metropolitan council shall be appointed by the governor as the 17th voting member thereof by and with the advice and consent of the senate to serve at the pleasure of the governor. Senate confirmation shall be as provided by section 15.066. The chair shall be a person experienced in the field of municipal and urban affairs with administrative training and executive ability.

(b) The chair of the metropolitan council shall preside at the meetings of the metropolitan council and shall act as principal executive officer. The chair shall organize the work of the metropolitan council, appoint all officers and employees thereof, subject to the approval of the metropolitan council, and be responsible for carrying out all policy decisions of the metropolitan council. The chair's salary shall be as provided in section 15A.081. The chair shall be eligible for expenses in the same manner and amount as state employees.

Subd. 5. Metropolitan council; duties and compensation. The metropolitan council shall elect such officers as it deems necessary for the conduct of its affairs other than the chair. A secretary and treasurer need not be members of the metropolitan council. Meeting times and places shall be fixed by the metropolitan council and special meetings may be called by a majority of the members of the metropolitan council or by the chair thereof. Each metropolitan council member other than the chair shall be paid a per diem compensation of \$50 for each meeting and for such other services as authorized by the metropolitan council, and shall be reimbursed for reasonable expenses. The annual budget of the council 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 and members only when budgeted.

In the performance of its duties the metropolitan council may promulgate rules governing its operation, establish committees, divisions, departments and bureaus and staff the same as necessary to carry out its duties and when specifically authorized by law make appointments to other governmental agencies and districts. All officers and employees of the metropolitan council shall serve at the pleasure of the appointing authority in the unclassified service of the state civil service. Rules promulgated by the metropolitan council shall be in accordance with the administrative procedure provisions contained in chapter 14.

Subd. 6. Executive director. Upon the recommendation of the chair the metropolitan council may appoint an executive director to serve at the chair's pleasure as the principal operating administrator for the metropolitan council. The director may be chosen from among the citizens of the nation at large, and shall be selected on the basis of training and experience in the field of municipal and urban affairs.

History: 1975 c 13 s 3; 1977 c 35 s 6; 1978 c 543 s 2,3; 1980 c 378 s 2; 1982 c 424 s 130; 1983 c 16 s 1-4; 1983 c 305 s 25; 1Sp1985 c 13 s 353; 1986 c 444; 1986 c 460 s 4-6

473.127 ADVISORY COMMITTEES.

The metropolitan council may establish and appoint persons to advisory committees to assist the metropolitan council in the performance of its duties. Members of the advisory committees shall serve without compensation but shall be reimbursed for their reasonable expenses as determined by the metropolitan council.

History: 1975 c 13 s 4

473.128 [Repealed, 1986 c 460 s 59]**473.129 ADMINISTRATION OF METROPOLITAN COUNCIL.**

Subdivision 1. General powers. The metropolitan council shall have and exercise all powers which may be necessary or convenient to enable it to perform and carry out the duties and responsibilities now existing or which may hereafter be imposed upon it by law. Such powers include the specific powers enumerated in this section.

Subd. 2. Officers and employees. The metropolitan council may prescribe all terms and conditions for the employment of its officers, employees, and agents including but not limited to the fixing of compensation, their classification, benefits, and the filing of performance and fidelity bonds and such policies of insurance as it may deem advisable, the premium for which, however, shall be paid for by the district. Officers and employees of the metropolitan council, however, are public employees. The compensation and other conditions of employment of such officers and employees shall not be governed by any rule applicable to state employees in the classified service nor to any of the provisions of chapter 15A, unless the council so provides. Those employed by the metropolitan council are members of the Minnesota state retirement system. Those employed by a predecessor of the metropolitan council and transferred to it may at their option become members of the Minnesota state retirement system or may continue as members of the public retirement association to which they belonged as employees of the predecessor of the metropolitan council. The metropolitan council shall make the employer's contributions to pension funds of its employees.

Subd. 3. Consulting contracts. The metropolitan council may contract for the services of consultants who perform engineering, legal, or services of a professional nature. Such contracts shall not be subject to the requirements of any law relating to public bidding.

Subd. 4. Gifts and appropriations. The metropolitan council may accept gifts, apply for and use grants or loans of money or other property from the United States, the state, or any person for any metropolitan council purpose and may enter into agreements required in connection therewith and may hold, use, and dispose of such moneys or property in accordance with the terms of the gift, grant, loan, or agreement relating thereto. All moneys of the metropolitan council received pursuant to this subdivision or any other provision of law shall be deposited in the state treasury and the amount thereof is appropriated annually to the metropolitan council for the purposes of carrying out its duties and responsibilities.

Subd. 5. Local governmental participation. The metropolitan council may (1) participate as a party in any proceedings originating before the Minnesota municipal board under chapter 414, if the proceedings involve the change in a boundary of a governmental unit in the metropolitan area, (2) conduct studies of the feasibility of annexing, enlarging, or consolidating units in the metropolitan area, (3) furnish space and other necessary assistance to a metropolitan expediter assigned to the metropolitan area or any part thereof under the Federal Demonstration City Act of 1966, on condition that such expediter files monthly reports with the metropolitan council concerning the expediter's activities.

Subd. 6. Participation in metropolitan area commissions and boards. (a) The metropolitan council shall appoint from its membership a member to serve with the metropolitan airports commission, a member to serve with the mosquito control commission, a member to serve on the Minneapolis-St. Paul sanitary district or any

successor thereof, and may appoint a member to serve on any metropolitan area commission or board authorized by law. Each member of the metropolitan council so appointed on each of such commissions shall serve without a vote.

(b) The metropolitan council shall also appoint individuals to the governing body of the cable communications metropolitan interconnected regional channel entity under section 238.43, subdivision 5.

History: 1975 c 13 s 6; 1975 c 271 s 6; 1985 c 285 s 48; 1986 c 444

473.13 BUDGET, FINANCIAL AID.

Subdivision 1. Budget. On or before October 1 of each year the council, after a public hearing, shall adopt a budget covering its anticipated receipts and disbursements for the ensuing year and shall decide upon the total amount necessary to be raised from ad valorem tax levies to meet its budget. The budget shall state in detail the expenditures for each program to be undertaken, including the expenses for salaries, consultant services, overhead, travel, printing, and other items. The budget shall state in detail the capital expenditures of the council for the budget year, based on a five-year capital program adopted by the council and transmitted to the legislature. After adoption of the budget, an increase of over \$10,000 in the council's budget, a program or department budget, or a budget item, must be approved by the council before the increase is allowed or the funds obligated. After adoption of the budget and no later than October 1, the council shall certify to the auditor of each metropolitan county the share of the tax to be levied within that county, which must be an amount bearing the same proportion to the total levy agreed on by the council as the gross tax capacity of the county bears to the gross tax capacity of the metropolitan area. The maximum amount of any levy made for the purpose of this chapter may not exceed the limits set by sections 473.167 and 473.249.

Subd. 1a. Program evaluation. The budget procedure of the council must include a substantive assessment and evaluation of the effectiveness of each significant program of the council, with, to the extent possible, quantitative information on the status, progress, costs, benefits, and effects of each program. The council shall transmit the evaluation to the legislature annually.

Subd. 2. Levies. The auditor of each metropolitan county shall add the amount of any levy made by the council within the limits imposed by subdivision 1 to other tax levies imposed within the county for collection by the county treasurer with other taxes. When collected the county treasurer shall make settlement of the taxes with the council in the same manner as other taxes are distributed to political subdivisions. The levy authorized by this section is in addition to any other taxes levied within the county authorized by law.

Subd. 3. Financial aid. The council may accept financial aid from governmental units within the metropolitan area, from the state or federal government, and from private donors, if the conditions under which it is offered are not incompatible with the provisions of this chapter.

Subd. 4. Accounts; audits. The council shall keep an accurate account of its receipts and disbursements. Disbursements of council money must be made by check, signed by the chair or vice-chair of the council and countersigned by its director or assistant director after whatever auditing and approval of the expenditure may be provided by rules of the council. The state auditor shall audit the books and accounts of the council once each year, or as often as funds and personnel of the state auditor permit. The council shall pay to the state the total cost and expenses of the examination, including the salaries paid to the auditors while actually engaged in making the examination. The revolving fund of the state auditor must be credited with all collections made for any examination.

History: 1986 c 460 s 7; 1Sp1986 c 3 art 2 s 29,30; 1988 c 675 s 1,2; 1988 c 719 art 5 s 84

473.141 MEMBERSHIP, PROCEDURES, OFFICERS AND EMPLOYEES OF METROPOLITAN AGENCIES.

Subdivision 1. **Application.** This section applies to metropolitan agencies as provided in the enabling law of each agency.

Subd. 2. **Membership; appointments.** (a) Each agency consists of eight members, plus a chair appointed as provided in subdivision 3. The metropolitan council shall appoint the eight members on a nonpartisan basis after consultation with the members of the legislature from the district for which the member is to be appointed. The consultation with legislators in the affected district must include informing each legislator of the name, address, and background of each candidate for appointment and soliciting and reporting to the appointments committee the recommendation of each legislator on the appointment.

(b) In addition to the notice required in section 15.0597, subdivision 4, notice of vacancies and expiration of terms must be published in newspapers of general circulation in the metropolitan area and the appropriate districts. The council shall notify in writing the governing bodies of the statutory and home rule charter cities, counties, and towns having territory in the district for which the member is to be appointed. The notices must describe the appointment process and invite participation and recommendations on the appointment.

(c) The council shall establish an appointments committee, composed of members of the council, to screen and review candidates. Following the submission of member applications to the metropolitan council as provided under section 15.0597, subdivision 5, the appointments committee shall conduct public meetings, following appropriate notice, to accept statements from or on behalf of persons who have applied or been nominated for appointment and to allow consultation with and secure the advice of the public and local elected officials. The committee shall hold the meeting on each appointment in the district or in a reasonably convenient and accessible location in the part of the metropolitan area in which the district is located. The committee may consolidate meetings. Following the meetings, the committee shall submit to the council a written report that lists the persons who have applied or been nominated or recommended for the position, along with a description of the background and qualifications of each. In making its recommendation, the committee specifically shall consider evidence of the candidate's commitment to regularly communicate on issues before the agency with metropolitan council members, legislators and local elected officials in the district, and the committee shall report its findings on this subject in its written report to the council.

(d) One member shall be appointed from each of the following agency districts:

- (1) district A, consisting of council districts 1 and 2;
- (2) district B, consisting of council districts 3 and 7;
- (3) district C, consisting of council districts 4 and 5;
- (4) district D, consisting of council districts 6 and 10;
- (5) district E, consisting of council districts 8 and 9;
- (6) district F, consisting of council districts 11 and 12;
- (7) district G, consisting of council districts 13 and 14; and
- (8) district H, consisting of council districts 15 and 16.

Subd. 3. **Chair.** The chair of each agency shall be appointed by the governor with the advice and consent of the senate, shall be the ninth voting member and shall meet all qualifications established for members, except the chair need only reside within the metropolitan area. The council, by resolution after a public meeting on the subject, shall provide the governor with a list of nominees for the position. Senate confirmation is as provided by section 15.066. The chair shall preside at all meetings of the agency, if present, and shall perform all other duties and functions assigned by the agency or by law. Each agency may appoint from among its members a vice-chair to act for the chair during temporary absence or disability.

Subd. 3a. **Members; duties.** Each member shall communicate regularly with metropolitan council members, legislators, and local government officials in the district the member represents.

Subd. 4. **Qualifications.** Each member shall be a resident of the commission district for which appointed and shall not during a term of office hold the office of metropolitan council member, or be a member of another metropolitan agency subject to this section, the metropolitan airports commission or the metropolitan sports facilities commission or hold any judicial office. Each member shall qualify by taking and subscribing the oath of office prescribed by the Minnesota Constitution, article V, section 5. Such oath, duly certified by the official administering the same, shall be filed with the executive director of the metropolitan council.

Subd. 4a. **Terms.** Following each apportionment of metropolitan council districts, as provided under section 473.123, subdivision 3a, the metropolitan council, newly appointed as provided in section 473.123, subdivision 3a, shall appoint eight agency board members from newly drawn districts. The terms of members and chairs are as follows: members representing districts A, B, C, and D, and the chair, for terms ending the first Monday in January of the year ending in the numeral "7"; members representing districts E, F, G, and H, for terms ending the first Monday in January of the year ending in the numeral "5." Thereafter the term of each member and the chair is four years, with terms ending the first Monday in January, except that all terms expire on the effective date of the next apportionment. A chair shall continue to serve until a successor is appointed and qualified. A member shall continue to serve the member's district until a successor is appointed and qualified; except that, following each apportionment, the member shall continue to serve at large until the metropolitan council appointed pursuant to section 473.123, subdivision 3a appoints eight members as provided under subdivision 2, to serve terms as provided under this subdivision. The appointments to the agency must be made by the first Monday in May of the year in which the term ends.

Subd. 5. **Removal.** Members, other than the chair, may be removed by the council only for cause in the manner specified in chapter 351. The chair may be removed at the pleasure of the governor.

Subd. 6. **Vacancies.** If the office of any commission member becomes vacant, the vacancy shall be filled in the same manner in which the last regular appointment for that precinct was made. An office shall be deemed vacant under the conditions specified in chapter 351.

Subd. 7. **Compensation.** Each commission member shall be paid a per diem compensation of \$50 for each meeting and for such other services as authorized by the commission, and shall be reimbursed for all actual and necessary expenses incurred in the performance of duties in the same manner and amount as state employees. The chair shall receive a salary in an amount fixed by section 15A.081 and shall be reimbursed for reasonable expenses to the same extent as a member; provided that the chair of the metropolitan sports facilities commission shall receive, unless otherwise provided by other law, a salary in an amount fixed by the members of the commission and shall be reimbursed for reasonable expenses to the same extent as a member. The annual budget of each commission 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 and members only when budgeted.

Subd. 8. **Regular and special meetings.** Each commission shall meet regularly at least once each month, at such time and place as the commission shall by resolution designate. Special meetings may be held at any time upon the call of the chair or any two other members, upon written notice sent by certified mail to each member at least three days prior to the meeting, or upon such other notice as the commission may by resolution provide, or without notice if each member is present or files with the secretary a written consent to the meeting either before or after the meeting. Unless otherwise provided, any action within the authority of the commission may be taken

by the affirmative vote of a majority of the members. A majority of all of the members of the commission shall constitute a quorum, but a lesser number may meet and adjourn from time to time and compel the attendance of absent members.

Subd. 9. Personnel code; merit system. (a) The council shall by resolution adopt guidelines for a personnel code relating to the employees of the commissions, except that nothing in Laws 1974, chapter 422, shall impair the rights of any commission or employee under sections 473.405 and 473.415. After adoption of the guidelines, each commission shall by resolution adopt a personnel code in general conformance therewith. The code shall include a job classification plan, procedures for employment and promotion of personnel based on merit, procedures for the demotion, suspension, or discharge of employees, procedures for hearing grievances, procedures for salary administration, and such other provisions as the council deems appropriate. In addition, the code shall provide for the development by each commission of affirmative action plans, as provided in section 473.143. The chief administrator of each commission shall administer the code, and no commission shall take any action inconsistent with the personnel code.

(b) All employees of the commission except those expressly designated for the unclassified service, shall serve in the classified service. The unclassified service shall include: members of the commission, the chief administrator of the commission, all officers of the commission, any employee of the commission who is determined by the commission to have a confidential relationship to the commission or the council; and any employee of the commission expressly exempted from the classified service by law. Each code shall also include procedures for open competitive examinations to test the relative skill or ability of all applicants for positions in the classified service. Such examinations may consist of written or oral tests of the subjective or objective type, physical tests, and practical or demonstration tests for the evaluation of past training and experience. Oral tests may be used to test the applicant's knowledge of the position applied for or personal fitness for the position. Where there is more than one applicant for a position, each code shall provide for the employment of one of the three applicants best qualified for it.

(c) When a commission employee has been demoted, suspended, or dismissed by the chief administrator, the employee may, within 30 days after such action becomes effective, file with the commission a written request for a hearing showing the position from which the employee was dismissed, the date of dismissal, and the reason for requesting the hearing, full name and present mailing address. Upon receipt of a request for a hearing the commission shall appoint three of its members to act as an appeal committee and preside at a hearing on the action of the administrator. The hearing shall be held within 30 days after the request is received by the commission, upon written notice mailed or delivered to the employee at the employee's present mailing address, not less than seven days before the hearing. The appeal committee shall approve or disapprove the action of the administrator, and in the case of approval the action of the administrator shall be final. In the case of disapproval the appeal committee may reinstate the employee under such conditions as it deems proper, and may order the payment to the employee of compensation lost as a result of the demotion, suspension or dismissal.

Subd. 10. Secretary and treasurer. At its first regular meeting each year each commission shall appoint a secretary and a treasurer or, in the alternative, a secretary-treasurer. The secretary and treasurer, or secretary-treasurer, may, but need not be, members of the commission, and shall hold office at the pleasure of the commission, subject to the terms of any contract of employment which the commission may enter into with the secretary or treasurer. The secretary shall record the minutes of all meetings of the commission and shall be the custodian of all books and records of the commission except such as the commission shall entrust to the custody of a designated employee. The treasurer shall be the custodian of all moneys received by the commission except such as the commission shall entrust to the custody of a designated employee. The commission may appoint a deputy to perform any and all functions of either the secretary or the treasurer.

Subd. 11. Chief administrator. The chair of each commission shall, subject to the approval of the commission, appoint a chief administrator who shall be chosen solely on the basis of training, experience, and other qualifications, and who shall serve at the pleasure of the commission. The administrator shall attend all meetings of the commission, but shall not vote, and shall have the following powers and duties:

- (a) See that all resolutions, rules, or orders of the commission are enforced.
- (b) Appoint and remove, subject to the provisions of the personnel code adopted pursuant to subdivision 9, upon the basis of merit and fitness, all subordinate officers and regular employees of the commission.
- (c) Present to the commission plans, studies, and reports prepared for commission purposes and recommend to the commission for adoption such measures as the administrator deems necessary to enforce or carry out the powers and duties of the commission, or to the efficient administration of the affairs of the commission.
- (d) Keep the commission fully advised as to its financial condition, and prepare and submit to the commission its annual budget and such other financial information as it may request.
- (e) Recommend to the commission for adoption such rules as the administrator deems necessary for the efficient operation of the commission's functions.
- (f) Perform such other duties as may be prescribed by the commission.

Subd. 12. Public employees. All persons employed by the chief administrator shall be public employees, and shall have all rights and duties conferred on public employees under sections 179A.01 to 179A.25. The compensation and other conditions of employment of such employees shall not be governed by any rule applicable to state employees in the classified service nor to any of the provisions of chapter 15A, unless the council so provides. All employees of the commission shall be members of the Minnesota state retirement system, except that employees, who by reason of their prior employment belonged to another public retirement association in the state of Minnesota, may at their option continue membership in that public retirement association, and all other rights to which they are entitled by contract or law. Members of trades who are employed by the metropolitan waste control commission with trade union pension coverage pursuant to a collective bargaining agreement who elected exclusion from coverage pursuant to section 473.512 or who are first employed after July 1, 1977 shall not be covered by the Minnesota state retirement system. The commission shall make the employer's contributions to pension funds of its employees. Employees shall perform such duties as may be prescribed by the commission. Nothing in Laws 1974, Chapter 422 shall impair the rights of any commission or employee under sections 473.405 and 473.415.

Subd. 13. Commission operating procedures. (a) The commission shall adopt resolutions and bylaws, an administrative code establishing procedures for commission action, keeping records, approving claims, authorizing and making disbursements, authorizing contracts, safekeeping funds and audit of all financial operations of the commission.

(b) The commission and the council may enter into contracts with each other and with other commissions and governmental units for the joint exercise of powers in the manner provided by section 471.59; provided that no commission shall enter into any contract with the council which would assign any operations authority, responsibility or function, other than planning or making studies, from the commission to the council.

Subd. 14. Relocation payment standards. In all acquisitions the commissions shall provide as a cost of acquisition the relocation assistance, services, payments and benefits required by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 84 Stat. 1894 (1971), 42 United States Code, Section 4601, et seq.

History: 1975 c 13 s 7; 1976 c 2 s 172; 1977 c 35 s 7; 1977 c 98 s 2; 1977 c 305 s 43; 1977 c 454 s 47; 1983 c 16 s 5-8; 1983 c 305 s 26; 1984 c 462 s 27; 1985 c 248 s 70; 1Sp1985 c 13 s 354; 1986 c 444; 1986 c 460 s 8-12; 1987 c 278 s 1,2; 1988 c 680 s 1

473.142 SOCIALLY AND ECONOMICALLY DISADVANTAGED BUSINESSES.

(a) The metropolitan council and agencies specified in section 473.143, subdivision 1, shall attempt to award at least nine percent of the value of all procurement, other than contracts under paragraph (c), to businesses owned and operated by socially or economically disadvantaged persons. For purposes of this section, "socially or economically disadvantaged person" means a person who has been deprived of the opportunity to develop and maintain a competitive position in the economy because of social or economic conditions. This disadvantage may arise from cultural, social or economic circumstances, background, or other similar cause. It includes racial minorities, women, persons with a disability as defined in section 363.01, subdivision 25, rehabilitation facilities, and work activity programs. To the extent practicable, the council and agencies shall attempt to meet this goal through procurement from businesses with their principal place of business in Minnesota. In furtherance of this goal, the council or an agency shall set aside a percentage of all procurements for bidding only by these businesses. The council or an agency may also award a five percent preference to these businesses in the amount bid on selected procurements.

(b) The council and each agency specified in section 473.143, subdivision 1, as a condition of awarding procurements for construction, consultant, professional, or technical service contracts in excess of \$200,000, shall attempt to assure that at least ten percent of the contract award to a prime contractor be subcontracted to a business owned and operated by a socially or economically disadvantaged person, or that at least ten percent of the contract award be expended in purchasing materials or supplies from this type of business. This paragraph does not apply if the council or agency determines that there is no business owned and operated by a socially or economically disadvantaged person able to perform the subcontract or provide the supplies, or if the prime contractor is a business owned and operated by a socially or economically disadvantaged person. Subcontracting or purchasing of supplies under this subdivision is not included in determining achievement of goals under paragraph (a) or (c).

(c) The council and each agency specified in section 473.143, subdivision 1, shall attempt to award at least six percent of the value of all procurements for consultant services or professional or technical services to businesses owned and operated by socially or economically disadvantaged persons.

(d) In implementing paragraphs (a) and (c), the council and each agency specified in section 473.143, subdivision 1, shall attempt to purchase a variety of goods and services from different businesses owned and operated by socially or economically disadvantaged persons.

(e) The council and each agency may adopt rules to implement this section.

(f) This section does not apply to procurement financed in whole or in part with federal funds if the procurement is subject to federal disadvantaged, minority, or women business enterprise regulations. The council and each agency shall report annually to the legislature on compliance with this subdivision. The reports must include the information specified in section 16B.21 that pertains to purchasing from businesses owned by socially or economically disadvantaged persons.

History: 1988 c 680 s 2; 1988 c 689 art 2 s 268

473.143 AFFIRMATIVE ACTION PLANS.

Subdivision 1. Application. For purposes of this section, "agency" means a metropolitan agency as defined in section 473.121, except the metropolitan parks and open space commission. Agency also means the metropolitan mosquito control commission. For purposes of this section, "commissioner" means the commissioner of the state department of employee relations.

Subd. 2. Development and contents. The council and each agency shall develop an affirmative action plan and submit its plan to the commissioner for approval. The commissioner may not approve a plan unless the commissioner determines that it will be effective in assuring that employment positions are equally accessible to all qualified

persons, in eliminating the underutilization of qualified members of protected groups, in providing a supportive work environment to all employees, regardless of race, religion, sex, national origin, or disability, and in dealing with discrimination complaints. For purposes of this section, "protected group" has the meaning given it in section 43A.02, subdivision 33. A plan must contain at least the elements required in this subdivision.

(a) It must identify protected groups that are underrepresented in the council's or agency's work force.

(b) It must designate a person responsible for directing and implementing the affirmative action program and assign the specific responsibilities and duties of that person. The person responsible for implementing the program shall report directly to the council's or agency's chief operating officer regarding the person's affirmative action duties. The person responsible for the affirmative action program shall review examination and other selection criteria to assure compliance with law. This person shall be involved in the filling of all vacancies in the council or agency work force, to the extent necessary to facilitate attainment of affirmative action goals.

(c) It must describe the methods by which the plan will be communicated to employees and to other persons.

(d) It must describe methods for recruiting members of protected groups. These methods may include internship programs, cooperation with union apprenticeship programs, and other steps necessary to expand the number of protected group members in applicant pools.

(e) It must describe internal procedures in accordance with this paragraph for processing complaints of alleged discrimination from job applicants and employees. The procedures must provide for an initial determination of whether the complaint is properly a discrimination complaint subject to the procedure under the affirmative action plan. Complaints filed under the discrimination procedures that allege reprisals against an employee for opposing a forbidden practice or for filing a charge, testifying, or participating in an investigation, proceeding, or hearing relating to a forbidden practice are appealable to the chief operating officer of the council or agency. Procedures under this paragraph must be distinct from any procedures available under a union contract or personnel policy for nondiscrimination complaints. Use of procedures developed under this paragraph is not a prerequisite to filing charges with a governmental enforcement agency, nor does it limit a person's right to file these charges.

(f) It must set goals and timetables to eliminate underutilization of members of each protected group in the council or agency work force.

(g) It must provide a plan for retaining and promoting protected group members in the council or agency work force. This plan should encourage training opportunities for protected group members, to the extent necessary to eliminate underutilization in specific parts of the work force.

(h) It must describe methods of auditing, evaluating, and reporting program success, including a procedure that requires a preemployment review of all hiring decisions for occupational groups with unmet affirmative action goals.

(i) It must provide for training of management and supervisory personnel in implementation of the plan and in dealing with alleged acts of discrimination in the workplace.

(j) It must provide for periodic surveying of the council or agency work force to determine employee attitudes toward implementation of the plan.

(k) It must provide for creation of an employee committee to advise on implementation of the plan and on any changes needed in the plan.

Subd. 3. Harassment. The council and each agency shall adopt written policies forbidding harassment based on sex, disability, or race in their workplaces and establishing implementation plans and grievance procedures to deal with complaints of harassment based on sex, disability, or race.

Subd. 4. Performance evaluation. The evaluation of the performance of each supervisory and managerial employee of the council and the agencies must include evaluation of the person's performance in implementing the council's or agency's affirmative action plan and in preventing forbidden discrimination in the workplace.

Subd. 5. Report. By March 1 each year, the commissioner shall report to the legislature on affirmative action progress of the council and of each agency. The report must include:

(1) an audit of the record of the council and each agency to determine compliance with affirmative action goals and to evaluate overall progress in attainment of overall affirmative action objectives;

(2) if the council or any agency has failed to make satisfactory progress toward its affirmative action goals, a list of unmet goals and an analysis of why the failure occurred;

(3) a summary of all personnel actions taken by the council and each agency during the past calendar year, categorized by occupational group, protected group status, and full-time, part-time, temporary, and seasonal status; and

(4) a summary of discrimination complaints and lawsuits against the council and each agency filed or resolved during the past calendar year, including the basis for the complaints and lawsuits.

For purposes of this subdivision, "personnel action" means a new hire, promotion, transfer, demotion, layoff, recall from layoff, suspension with or without pay, letter of reprimand, involuntary termination, other disciplinary action, and voluntary termination.

The council and each agency shall report to the commissioner all information that the commissioner requests to make the report required by this subdivision. In providing this information, the council and agencies are not required to reveal information that is not public data under chapter 13.

The council and each agency shall submit these reports at the time and in the manner requested by the commissioner. The commissioner shall report to the legislature on the failure of the council or an agency to file the required report in a timely manner.

Subd. 6. Coordination. The commissioner or a designee shall meet with affirmative action officers of the council and all of the agencies to share successful techniques and foster innovative means to implement affirmative action plans and eliminate discrimination in the workplace.

Subd. 7. Coordination with legislature. The council and each agency shall facilitate legislative oversight of equal opportunity practices by providing the legislature access, including access to computerized records if compatible systems exist, to public data maintained by the agency. The council and agencies must not provide access to information that is not public data as defined in section 13.02, subdivision 8a.

History: 1988 c 680 s 3

473.144 CERTIFICATES OF COMPLIANCE FOR CONTRACTS.

Neither the council nor an agency listed in section 473.143, subdivision 1, may accept any bid or proposal for a contract or execute a contract for goods or services in excess of \$50,000 with any business having more than 20 full-time employees in Minnesota at any time during the previous 12 months, unless the business has an affirmative action plan for the employment of minority persons, women, and the disabled that has been approved by the commissioner of human rights. Receipt of a certificate of compliance from the commissioner of human rights signifies that a business has an approved affirmative action plan. A certificate is valid for two years. Section 363.073 governs revocation of certificates. The rules adopted by the commissioner of human rights under section 363.074 apply to this section.

History: 1988 c 680 s 4

473.145 DEVELOPMENT GUIDE.

The metropolitan council shall prepare and adopt, after appropriate study and such public hearings as may be necessary, a comprehensive development guide for the metropolitan area. It shall consist of a compilation of policy statements, goals, standards, programs, and maps prescribing guides for an orderly and economic development, public and private, of the metropolitan area. The comprehensive development guide shall recognize and encompass physical, social, or economic needs of the metropolitan area and those future developments which will have an impact on the entire area including but not limited to such matters as land use, parks and open space land needs, the necessity for and location of airports, highways, transit facilities, public hospitals, libraries, schools, and other public buildings.

History: 1975 c 13 s 8

473.146 POLICY PLANS FOR METROPOLITAN AGENCIES.

Subdivision 1. Requirement. The council shall adopt a long-range comprehensive policy plan for each metropolitan agency required to prepare an implementation plan under section 473.161. The plans must substantially conform to all policy statements, purposes, goals, standards, and maps in the development guide developed and adopted by the council under this chapter. Each policy plan must include, to the extent appropriate to the functions, services, and systems covered, the following:

(1) forecasts of changes in the general levels and distribution of population, households, employment, land uses, and other relevant matters, for the metropolitan area and appropriate subareas, to be used in preparing the implementation plan of the affected metropolitan agency;

(2) a statement of issues, problems, needs, and opportunities with respect to the functions, services, and systems covered;

(3) a statement of the council's goals, objectives, and priorities with respect to the functions, services, and systems covered, addressing areas and populations to be served, the levels, distribution, and staging of services; a general description of the facility systems required to support the services, and other similar matters;

(4) a statement of policies to effectuate the council's goals, objectives, and priorities;

(5) a statement of the fiscal implications of the council's plan, including a statement of: (i) the resources available under existing fiscal policy; (ii) the adequacy of resources under existing fiscal policy and any shortfalls and unattended needs; (iii) additional resources, if any, that are or may be required to effectuate the council's goals, objectives, and priorities; and (iv) any changes in existing fiscal policy, on regional revenues and intergovernmental aids respectively, that are expected or that the council has recommended or may recommend;

(6) a statement of the standards, criteria, and procedures that the council will use in monitoring and evaluating the implementation of the plan;

(7) a statement of the matters that must be addressed in the implementation plan of the affected metropolitan agency;

(8) a statement of the relationship of the policy plan to other policy plans and chapters of the metropolitan development guide;

(9) a statement of the relationships to local comprehensive plans prepared under sections 473.851 to 473.872; and

(10) additional general information as may be necessary to develop the policy plan or as may be required by the laws relating to the metropolitan agency and function covered by the policy plan.

Subd. 2. Consultation with agency; predrafting notice. In preparing or amending the policy plan, the council shall consult with and make maximum use of the expertise of the affected metropolitan agency. The agency shall cooperate with the council and make its records, studies, plans, and other information available to the council.

Before beginning to prepare a substantial revision of a policy plan, the council shall publish notice and request comments from the public. At least 90 days before publication of the predrafting notice, the council shall submit a draft of the notice to the affected metropolitan agency for review and comment. The predrafting notice must include a statement of the subjects expected to be covered by the policy and implementation plans; a summary of important problems, issues, and matters that are expected to be addressed in the plans; and a summary of the studies and other information required as the basis of the plans. All interested persons must be afforded an opportunity to submit data or views on the predrafting notice, either orally or in writing.

Before adopting a policy plan or substantial revision thereof, the council shall submit the proposed plan to the affected metropolitan agency for its review, and the agency shall report its comments to the council within 90 days.

Subd. 2a. Hearing; adoption. The council shall hold a public hearing on the proposed policy plan at a time and place in the metropolitan area determined by the council. Not less than 15 days before the hearing, the council shall publish notice in a newspaper or newspapers having general circulation in the metropolitan area, stating the date, time and place of hearing, and the place where the proposed policy plan and agency comments may be examined by any interested person. At any hearing interested persons must be permitted to present their views on the policy plan, and the hearing may be continued from time to time. After receipt of the agency's report and the hearing, the council may revise the proposed plan giving appropriate consideration to all comments received, and thereafter shall adopt the plan by resolution.

Subd. 2b. Effect. Adopted policy plans must be followed by the council and the affected metropolitan agency.

Subd. 2c. Amendment. An amendment to a policy plan may be initiated by the council or by an affected metropolitan agency. At least every five years the council shall engage in a comprehensive review of the policy plan and revise the plan as necessary. The council shall amend a policy plan in accordance with the procedures established in this section.

Subd. 3. Transportation chapter of the development guide. The transportation chapter must include policies relating to all transportation forms and be designed to promote the legislative determinations, policies, and goals set forth in section 473.371. In addition to the requirements of subdivision 1 regarding the contents of the policy plan, the nontransit element of the transportation chapter must include the following:

(1) a statement of the needs and problems of the metropolitan area with respect to the functions covered, including the present and prospective demand for and constraints on access to regional business concentrations and other major activity centers and the constraints on and acceptable levels of development and vehicular trip generation at such centers;

(2) the objectives of and the policies to be forwarded by the policy plan;

(3) a general description of the physical facilities and services to be developed;

(4) a statement as to the general location of physical facilities and service areas;

(5) a general statement of timing and priorities in the development of those physical facilities and service areas;

(6) a detailed statement, updated every two years, of timing and priorities for improvements and expenditures needed on the metropolitan highway system; and

(7) a general statement on the level of public expenditure appropriate to the facilities.

The council shall develop the nontransit element in consultation with the transportation advisory board and shall transmit the results to the state department of transportation.

Subd. 4. Transportation planning. The metropolitan council is the designated planning agency for any long-range comprehensive transportation planning required by section 134 of the Federal Highway Act of 1962, Section 4 of Urban Mass Transporta-

tion Act of 1964 and Section 112 of Federal Aid Highway Act of 1973 and other federal transportation laws. The council shall assure administration and coordination of transportation planning with appropriate state, regional and other agencies, counties, and municipalities, and shall establish an advisory body consisting of representatives of the regional transit board, citizens, municipalities, counties, and state agencies in fulfillment of the planning responsibilities of the council and the transit board.

History: 1975 c 13 s 9; 1976 c 166 s 7; 1984 c 654 art 3 s 108, 109; 1986 c 460 s 13-15; 1988 c 675 s 3

473.147 REGIONAL RECREATION OPEN SPACE SYSTEM POLICY PLAN.

Subdivision 1. The metropolitan council after consultation with the parks and open space commission, municipalities, park districts and counties in the metropolitan area, and after appropriate public hearings, shall prepare and adopt a long-range system policy plan for regional recreation open space as part of the council's metropolitan development guide. The plan shall substantially conform to all policy statements, purposes, goals, standards, and maps in development guide sections and comprehensive plans as developed and adopted by the council pursuant to the chapters of the Minnesota Statutes directly relating to the council. The policy plan shall identify generally the areas which should be acquired by a public agency to provide a system of regional recreation open space comprising park district, county and municipal facilities which, together with state facilities, reasonably will meet the outdoor recreation needs of the people of the metropolitan area and shall establish priorities for acquisition and development. In preparing or amending the policy plan the council shall consult with and make maximum use of the expertise of the commission. The policy plan shall include a five year capital improvement program, which shall be revised periodically, and shall establish criteria and priorities for the allocation of funds for such acquisition and development. The legislature in each bonding measure shall designate an anticipated level of funding for this acquisition and development for each of the two succeeding bienniums.

Subd. 2. Before adopting the policy plan, the council shall submit the proposed plan to the parks and open space commission for its review, and the commission shall report its comments to the council within 60 days. The council shall hold a public hearing on the proposed policy plan at such time and place in the metropolitan area as it shall determine. Not less than 15 days before the hearing, the council shall publish notice thereof in a newspaper or newspapers having general circulation in the metropolitan area, stating the date, time and place of hearing, and the place where the proposed policy plan and commission comments may be examined by any interested person. At any hearing interested persons shall be permitted to present their views on the policy plan, and the hearing may be continued from time to time. After receipt of the commission's report and hearing, the council may revise the proposed plan giving appropriate consideration to all comments received, and thereafter shall adopt the plan by resolution. An amendment to the policy plan may be proposed by the council or by the parks and open space commission. At least every four years the council shall engage in a comprehensive review of the policy plan, development guide sections, comprehensive plans, capital improvement programs and other plans in substantial conformance with the requirements of subdivision 1 which have been adopted by the council.

History: 1975 c 13 s 10; 1983 c 344 s 24

473.149 SOLID WASTE COMPREHENSIVE PLANNING.

Subdivision 1. **Policy plan; general requirements.** The metropolitan council shall prepare and by resolution adopt as part of its development guide a long range policy plan for solid waste management in the metropolitan area. When adopted, the plan shall be followed in the metropolitan area. The plan shall address the state policies and purposes expressed in section 115A.02. The plan shall substantially conform to all policy statements, purposes, goals, standards, maps and plans in development guide

sections and plans adopted by the council, provided that no land shall be thereby excluded from consideration as a solid waste facility site except land determined by the agency to be intrinsically unsuitable for such use. The plan shall include goals and policies for solid waste management in the metropolitan area and, to the extent appropriate, statements and information similar to that required under section 473.146, subdivision 1. The plan shall include criteria and standards for solid waste facilities and solid waste facility sites respecting the following matters: general location; capacity; operation; processing techniques; environmental impact; effect on existing, planned, or proposed collection services and waste facilities; and economic viability. The plan shall, to the extent practicable and consistent with the achievement of other public policies and purposes, encourage ownership and operation of solid waste facilities by private industry. For solid waste facilities owned or operated by public agencies or supported primarily by public funds or obligations issued by a public agency, the plan shall include additional criteria and standards to protect comparable private and public facilities already existing in the area from displacement unless the displacement is required in order to achieve the waste management objectives identified in the plan. In developing the plan the council shall consider the orderly and economic development, public and private, of the metropolitan area; the preservation and best and most economical use of land and water resources in the metropolitan area; the protection and enhancement of environmental quality; the conservation and reuse of resources and energy; the preservation and promotion of conditions conducive to efficient, competitive, and adaptable systems of waste management; and the orderly resolution of questions concerning changes in systems of waste management. Criteria and standards for solid waste facilities shall be consistent with rules adopted by the pollution control agency pursuant to chapter 116 and shall be at least as stringent as the guidelines, regulations, and standards of the federal environmental protection agency.

Subd. 2. MS 1975 Supp [Repealed, 1976 c 179 s 20]

Subd. 2. **Disposal capacity estimate.** By July 1, 1980, the council shall adopt by resolution an estimate of the added solid waste disposal capacity needed in appropriate sectors of the metropolitan area in annual increments through the year 1990 and thereafter in five year increments through the year 2000. The council's estimate shall be based upon existing and projected solid waste generation rates without regard to potential waste reduction, separation, and recovery activity except that provided by services and facilities in operation or under construction.

Subd. 2a. **Disposal abatement report.** By January 1, 1981, the council shall prepare and submit a report to metropolitan counties on potentials for abating the need for and practice of land disposal of mixed municipal solid waste in the metropolitan area, for use by the counties in developing land disposal abatement plans pursuant to section 473.803, subdivision 1b. The report shall contain an analysis of abatement achievable through waste reduction, waste separation, waste processing, and resource recovery. The report shall contain specific and quantifiable alternative abatement objectives and degrees of abatement, along with solid waste management methods and technologies, private and government actions, facilities and services, development schedules, revenue-raising measures, and levels of public and private expenditure and effort necessary to the achievement of those alternative objectives and degrees of abatement. The report shall recommend priorities and objectives for abating, immediately and over specified time periods, the disposal of mixed municipal solid waste in the metropolitan area. During the preparation of the report, the council shall encourage public debate and discussion of the issues relating to land disposal abatement and shall hold a public meeting on the issues in each metropolitan county.

Subd. 2b. **Inventory of solid waste disposal sites.** By September 1, 1983, the council shall adopt by resolution an inventory of eligible solid waste disposal sites and buffer areas within the metropolitan area. The council's inventory shall be composed of the sites and buffer areas proposed by the counties and reviewed and approved by the council pursuant to section 473.803, subdivision 1a. If a county does not have an approved inventory of the required number of sites by June 1, 1983, the council shall

begin investigations and public hearings in order to adopt the required inventory for the county by September 1, 1983. The council's inventory shall satisfy all requirements and standards described in section 473.803, subdivision 1a, for sites and buffer areas proposed by counties. For sites and buffer areas included in the council's inventory, the development limitation imposed under section 473.806, subdivision 1, shall extend until 90 days following the selection of sites pursuant to section 473.833, subdivision 3. Upon the request of a county, the council may remove from the inventory property that is within the boundaries of the fill portion of a currently or previously permitted solid waste disposal facility, if the removal of the property does not reduce the size of the affected site below the 80 acre minimum area required in section 473.803, subdivision 1a.

Subd. 2c. Report on local effects of solid waste disposal facilities; report to legislature. By November 1, 1983, the council shall report to the legislative commission on methods of mitigating and compensating for the local risks, costs, and other adverse effects of solid waste disposal facilities and on methods of financing mitigation and compensation measures. The methods of mitigating and compensating to be considered shall include but not be limited to the following: compensation to landowners for damages resulting from the selection of a site for the inventory of sites or for development as a facility, payment outside of levy limitations in lieu of taxes for all property taken off the tax rolls; preference for the city or town containing a facility in federal A-95 reviews conducted by the council; payment of all costs to service the facilities including the costs of roads, monitoring, inspection, enforcement, police and fire, and litter clean up costs; payment for buffer zone amenities and improvements; city or town control over buffer zone design; elimination of the tipping charge for solid waste collected in the city or town; a guarantee against any and all liability that may occur; payment for reclamation of closed sites to local design specifications.

Subd. 2d. Land disposal abatement plan. By January 1, 1985, after considering any county land disposal abatement proposals and waste stream analysis that have been submitted by that date, pursuant to section 473.803, subdivision 1b, the council shall amend its policy plan to include specific and quantifiable metropolitan objectives for abating to the greatest feasible and prudent extent the need for and practice of land disposal of mixed municipal solid waste and of specific components of the solid waste stream, either by type of waste or class of generator. The objectives must be stated in annual increments through the year 1990 and thereafter in five-year increments through the year 2000. The plan must include a reduced estimate, based on the council's abatement objectives, of the added solid waste disposal capacity needed in appropriate sectors of the metropolitan area, stated in annual increments through the year 1990 and thereafter in five year increments through the year 2000. The plan must include measurable objectives for local abatement of solid waste through resource recovery and waste reduction and separation programs and activities for each metropolitan county and for cities of the first class, the second class, and the third class, respectively, stated in annual increments through the year 1990 and in five-year increments through the year 2000. The standards must be based upon and implement the council's metropolitan abatement objectives. The council's plan must include standards and procedures to be used by the council in determining whether a metropolitan county or class of cities within a metropolitan county has implemented the council's metropolitan land disposal abatement plan and has achieved the objectives for local abatement.

Subd. 2e. Solid waste disposal facilities development schedule. By January 1, 1985, after requesting and considering recommendations from the counties, cities, and towns, the council as part of its policy plan shall determine the number of sites and the capacity of sites to be acquired within each metropolitan county for solid waste disposal facilities in accordance with section 473.833. The council shall adopt a schedule of disposal capacity to be developed in each county through the year 2000. The schedule may not allow capacity in excess of the council's reduced estimate of the disposal capacity needed because of the council's land disposal abatement plan, except as the council deems necessary to allow reallocation of capacity as required by this subdivision. The council shall make the implementation of elements of the schedule, including

the disposal capacity allocated to each county, contingent on actions of each county and class of city in that county in adopting and implementing abatement plans pursuant to section 473.803, subdivision 1b. The council shall review the development schedule every year and shall revise the development schedule and the allocation of disposal capacity required for each county based on the progress made in that county in the implementation of the council's abatement plans and achievement of metropolitan and local abatement objectives. The schedule may include procedures to be used by counties in selecting sites for acquisition pursuant to section 473.833. The schedule must include standards and procedures for council certification of need pursuant to section 473.823. The schedule must include a facility closure schedule and plans for postclosure management and disposition, for the use of property after acquisition and before facility development, and for the disposition of property and development rights, as defined in section 473.833, no longer needed for disposal facilities. The schedule must also include a closure schedule and plans for postclosure management for facilities in existence before the adoption of the development schedule.

Subd. 3. Preparation and adoption. The solid waste policy plan shall be prepared, adopted, and amended in accordance with section 473.146, subdivision 2, provided that the procedural duties and responsibilities established therein for the affected metropolitan agency shall extend to the metropolitan counties and the pollution control agency. In addition to the requirements of section 473.146, subdivision 2, the council shall send notice of any hearing to the pollution control agency and the governing body of each metropolitan county and each local governmental unit, as defined in section 473.801, wherein a solid waste facility is or may be located in accordance with the plan. Any comprehensive plan adopted by the council shall remain in force and effect while new or amended plans are being prepared and adopted by the council. By October 1, 1976, the council shall adopt either interim policies or amendments to the existing comprehensive plan establishing standards and criteria for the review under section 473.823 of permit applications for solid waste facilities used primarily for resource recovery. For permit applications received by the council prior to October 1, 1976, the council may extend the time period provided for review under section 473.823 until 60 days after the adoption of the interim policies or amendments. No metropolitan county, local government unit, commission, or person shall acquire, construct, improve or operate any solid waste facility in the metropolitan area except in accordance with the council's plan and section 473.823, provided that no solid waste facility in use when a plan is adopted shall be discontinued solely because it is not located in an area designated in the plan as acceptable for the location of such facilities.

Subd. 4. Advisory committee. The council shall establish an advisory committee to aid in the preparation of the policy plan, the performance of the council's responsibilities under subdivisions 2 to 2e, the review of county master plans and reports and applications for permits for waste facilities, under sections 473.151, 473.801 to 473.823, 473.831, and 473.833, and other duties determined by the council. The committee shall consist of one-third citizen representatives, one-third representatives from metropolitan counties and municipalities, and one-third representatives from private waste management firms. From at least the date that the council adopts the inventory under subdivision 2b to the date that the council adopts a development schedule under subdivision 2e, for the purpose only of participating in the preparation of the legislative report required by subdivision 2c, the land disposal abatement plan required by subdivision 2d, and the development schedule required by subdivision 2e, additional members shall be included on the advisory committee sufficient to assure that at least one-third of the members of the committee are residents of cities or towns containing eligible solid waste disposal sites included in the council's disposal site inventory, and that counties containing three sites have at least two additional members and counties containing one or two sites have at least one additional member. A representative from the pollution control agency, one from the waste management board established under section 115A.04, and one from the Minnesota health department shall serve as ex officio members of the committee.

Subd. 5. Right of access. Whenever the council deems it necessary to the

evaluation of a disposal site or buffer area under chapter 473, the council or any member, employee, or agent thereof, when authorized by it, may enter upon any public or private property for the purpose of obtaining information or conducting surveys or investigations if the entrance and activity are undertaken after reasonable notice and during normal business hours. The council shall compensate for any damage to the property caused by the entrance and activity.

Subd. 6. Report to legislature. The council shall report on abatement to the legislative commission on waste management by November 1 of each year. The report must include an assessment of whether the objectives of the metropolitan abatement plan have been met and whether each county and each class of city within each county have achieved the objectives set for it in the council's plan. The report must recommend any legislation that may be required to implement the plan. If in any year the council reports that the objectives of the council's abatement plan have not been met, the council shall evaluate and report on the need to reassign governmental responsibilities among cities, counties, and metropolitan agencies to assure implementation and achievement of the metropolitan and local abatement plans and objectives.

The report in each even-numbered year must include a report on the operating, capital, and debt service costs of solid waste facilities in the metropolitan area; changes in the costs; the methods used to pay the costs; and the resultant allocation of costs among users of the facilities and the general public. The facility costs report must present the cost and financing analysis in the aggregate and broken down by county and by major facility.

History: 1975 c 13 s 11; 1976 c 179 s 7-9; 1980 c 564 art 10 s 2; 1981 c 352 s 31-34; 1982 c 569 s 22; 1983 c 373 s 46-50; 1984 c 644 s 58,59; 1985 c 248 s 70; 1985 c 274 s 16; 1986 c 460 s 16; 1987 c 348 s 39,40; 1987 c 384 art 2 s 101; 1988 c 685 s 29

473.151 DISCLOSURE.

For the purpose of the rules, plans, and reports required or authorized by sections 473.149, 473.516, 473.801 to 473.823 and this section, each generator of hazardous waste and each owner or operator of a collection service or waste facility annually shall make the following information available to the agency, council, and metropolitan counties: a schedule of rates and charges in effect or proposed for a collection service or the processing of waste delivered to a waste facility and a description, in aggregate amounts indicating the general character of the solid and hazardous waste collection and processing system, of the types and the quantity, by types, of waste generated, collected, or processed. The county, council, and agency shall act in accordance with the provisions of section 116.075, subdivision 2, with respect to information for which confidentiality is claimed.

History: 1976 c 179 s 18; 1985 c 248 s 70

473.153 COMPREHENSIVE DISPOSAL FACILITIES PLAN FOR SEWAGE SLUDGE AND SOLID WASTE FROM SEWAGE TREATMENT.

Subdivision 1. Facilities required. Except as provided in subdivision 7 and section 115A.33, all facilities for the disposal of solid waste generated by the metropolitan waste control commission shall be established and operated in accordance with this section and section 473.516. The commission shall acquire and own all of the facilities needed for the disposal of the sludge ash generated by the commission. The commission shall acquire and establish at least one facility for sludge ash disposal at a site selected by the council under this section, unless the council and the agency determine under subdivision 4a that the facility is not needed.

Subd. 2. Candidate site selection. The council shall select candidate sites for the disposal of the commission's solid waste, together with appropriate surrounding buffer areas. The council shall select at least three candidate sites by September 1, 1983. The council shall evaluate sites for candidacy on the basis of at least the following factors: local land use and land use controls, the protection of agriculture and natural resources,

existing and future development patterns, transportation facilities, distance from the points of generation, and the intrinsic suitability of sites compared with other potential sites. Notwithstanding any plan, charter provision, law, ordinance, rule, or other requirement of the council, counties, or local units of government, no land shall be excluded from consideration for candidacy except land determined by the agency to be intrinsically unsuitable. No site shall be selected for candidacy unless the agency certifies its intrinsic suitability for the use intended, based on preliminary environmental analysis and on-site surveys and investigations conducted by the council. The council shall provide to the agency data relating to the intrinsic suitability of the sites to be proposed as candidate sites as soon as available. The council shall propose at least six locations as candidate sites and the director of the agency shall issue a notice indicating which of those sites the director recommends be certified as intrinsically suitable. The director shall publish notice of a consolidated hearing on the recommendation. Notice shall be published in the State Register and newspapers of general circulation in the metropolitan area and shall be sent by mail to local government units containing a proposed candidate site. The hearing shall be conducted by the state office of administrative hearings in a manner consistent with the completion of the proceedings and the administrative law judge's report to the agency in the time allowed by this section. The hearing shall afford all interested persons an opportunity to testify and present evidence on the subject of the hearing. The subject of the hearing shall be limited to information submitted by the council and additional information on the proposed sites which is relevant to the agency's decision on intrinsic suitability. The rulemaking and contested case procedures of chapter 14 shall not apply to this hearing. The report of the administrative law judge shall contain findings of fact, conclusions, and recommendations on the subject of the hearing. The agency shall make a final determination as to the intrinsic suitability of each proposed site and shall certify them accordingly within 90 days of the council's proposal of a site. The agency shall not be required to promulgate rules pursuant to chapter 14 on criteria and standards to govern its certification of intrinsic suitability under this section. No action of the agency shall be held invalid by reason of the agency's failure to notify any of the entities listed in this subdivision. In selecting candidate sites, the council shall prefer land which is capable of being returned to its existing use or the use anticipated in a plan of a metropolitan agency, county, or local unit of government use after closure of a disposal facility.

Subd. 3. Moratorium. In order to permit the comparative evaluation of sites and the participation of affected localities in decisions about the use of sites, a moratorium is hereby imposed as provided in this subdivision on development within the area of each candidate site and buffer area selected by the council. The moratorium shall extend until six months following the council's decision under subdivision 6 or until the sites are dismissed from consideration pursuant to subdivision 4a. No development shall be allowed to occur within the area of a site or buffer area during the period of the moratorium without the approval of the council. No county, city, or town land use control shall permit development which has not been approved by the council, nor shall any county, city, or town sanction or approve any subdivision, permit, license, or other authorization which would allow development to occur which has not been approved by the council. The council shall not approve actions which would jeopardize the availability of a candidate site for use as a solid waste facility. The council may establish guidelines for reviewing requests for approval under this subdivision. Requests for approval shall be submitted in writing to the chair of the council and shall be deemed to be approved by the council unless the chair otherwise notifies the submitter in writing within 15 days.

Subd. 4. Advisory committee. For the purposes only of advising the council on decisions under this section, additional members shall be added to the advisory committee established by section 473.149, subdivision 4, sufficient to assure that each city and town containing a candidate site has at least one representative on the committee.

Subd. 4a. Need for facility; option to terminate siting. The council may determine,

by resolution following a public hearing, that the new sludge ash disposal facility to be acquired and established under this section, as required by subdivision 1, is not needed, because the council finds that permitted management methods other than land disposal, together with land disposal of ash on property owned by the commission prior to March 1, 1986, will be sufficient to accommodate all of the commission's ash without the acquisition and establishment of a new facility. A determination of the council that the facility is not needed is subject to review and approval by the pollution control agency. If the agency disapproves, the council and the commission shall proceed to site, acquire, and establish the facility as required by this section. If the agency approves, the council shall terminate the siting process established by this section and permanently dismiss the candidate sites from further consideration as sites for the facility.

Subd. 5. Environmental review. Unless the council and the agency determine under subdivision 4a that the sludge ash disposal facility required by subdivision 1 is not needed, an environmental impact statement must be completed on the environmental effects of the council's decisions required by subdivision 6. The statement must be prepared and reviewed in accordance with chapter 116D and the rules issued pursuant thereto, except as otherwise required by this section. The statement must not address or reconsider alternatives eliminated from consideration pursuant to subdivisions 1 and 2 and must not address the matters subject to decision by the council pursuant to subdivision 6b.

Subd. 5a. Agencies; report on permit conditions and application requirements. Within 30 days following the council's determination of adequacy pursuant to subdivision 5, the chief executive officer of each permitting state agency shall issue to the council reports on permit conditions and permit application requirements at each candidate site. The reports must indicate, to the extent possible based on existing information, the probable terms, conditions, and requirements of permits and the probable supplementary documentation that will be required for permit applications. The reports must be consistent with the establishment of facilities in accordance with the requirements of this section, must not address or reconsider alternatives eliminated from consideration under subdivisions 1 and 2, and must not address the matters to be decided by the council pursuant to subdivision 6b.

Subd. 6. Council site selection. Within 90 days following the determination of adequacy, the council shall select at least one of the candidate sites for acquisition and development by the commission. Before its selection the council shall consult with the advisory committee and affected counties, cities, and towns.

Subd. 6a. Suspension of siting during study. After the certifications required by subdivision 2, there is imposed a suspension until December 31, 1982 on the site evaluation and selection procedure required by subdivisions 1 to 4 and 6. During the period of suspension the council shall evaluate:

(a) methods of reducing to the greatest feasible and prudent extent the introduction of hazardous materials in sewage flows; and

(b) uses for the commission's waste which will reduce to the greatest feasible and prudent extent the need for commission disposal facilities.

Subd. 6b. Certification of need. The disposal of sludge ash generated by the commission is not permitted in the metropolitan area without a certification of need issued by the council indicating the council's determination:

(a) that the disposal of waste with concentrations of hazardous materials is necessary; and

(b) that ash disposal is necessary.

The council shall certify need only to the extent that there are no feasible and prudent methods of reducing the concentrations of hazardous materials in the waste and no feasible and prudent alternatives to ash disposal, including large-scale composting and cocomposting of sludge, which would minimize adverse impact upon natural resources. Methods and alternatives that are speculative or conjectural shall not be deemed to be feasible and prudent. Economic considerations alone shall not justify the

certification of need or the rejection of methods or alternatives, including large-scale composting and cocomposting of sludge as an alternative to incineration. In its certification the council shall not consider alternatives which have been eliminated from consideration by the selection of sites pursuant to subdivision 2.

Subd. 6c. Certification of need; restriction. No certification of need may be issued by the council pursuant to subdivision 6b until the report required by this subdivision is submitted to the legislative commission on waste management. The council shall submit the report by January 1, 1984. The report shall evaluate the potential of large-scale sewage sludge composting and cocomposting to reduce the need for sewage sludge incineration, sewage sludge ash disposal, and mixed municipal solid waste land disposal; recommend institutional arrangements necessary for the implementation of large-scale sewage sludge composting and cocomposting; and compare the costs and benefits of composting and cocomposting with the costs, including costs already incurred, and the benefits of incineration.

Subd. 7. Exemptions. Nothing in this section shall be construed to preclude the commission from continuing to use existing sewage sludge disposal facilities. In addition, to the same extent and upon the same conditions as sewage sludge may be applied on private property pursuant to section 473.516, subdivisions 3 and 4, the commission may use any site of less than 500 acres owned by the commission for the purpose of landspreading sewage sludge. Any property currently used by the commission and permitted by the agency for disposing of the commission's solid waste may continue to be used for that purpose by the commission, as permitted by the agency.

History: 1980 c 564 art 10 s 3; 1981 c 352 s 35-38; 1982 c 424 s 130; 1982 c 569 s 23,24; 1983 c 373 s 51-56; 1984 c 640 s 32; 1985 c 248 s 70; 1985 c 274 s 17-21; 1986 c 425 s 33-37; 1986 c 444

473.161 IMPLEMENTATION PLANS OF METROPOLITAN AGENCIES.

Subdivision 1. [Deleted by amendment, 1986 c 460 s 17]

Subd. 1a. Requirement; purpose. Each metropolitan agency that is subject to this section by its enabling law shall adopt an implementation plan meeting the requirements of this section. The implementation plan must implement and effectuate the policy plan adopted by the council under section 473.146. Elements of the implementation plan must cover the period or periods prescribed in the council's policy plan.

Subd. 1b. Content. The implementation plan must include the following:

(1) a statement of objectives and priorities for capital development, services, and system management;

(2) a statement of agency plans to achieve the objectives, describing the functions, services, and systems that will be provided by or under the direction or auspices of the agency;

(3) a statement of how the agency's objectives, priorities, and plans will implement and effectuate the council's policy plan;

(4) a statement of the fiscal implications of the agency's plan, including a statement of: (i) the anticipated expenditure of public and private funds, for capital developments, services, and system administration and management, and the changes in expenditure levels that the plan represents; (ii) the resources available under existing fiscal policy and additional resources, if any, that are or may be required to effectuate the agency's plan; (iii) any changes in agency policy on regional sources of revenue and changes in levels of debt, user charges, and taxes; (iv) other changes in existing fiscal policy, on regional revenues and intergovernmental aids respectively, that are expected or that the agency has recommended or may recommend; and (v) the effect on functions and levels and types of services, and the agency's contingency and cost-containment strategies, if the additional resources required to effectuate the agency's plan do not become available;

(5) a statement of the standards, criteria, and procedures that the agency will use in monitoring and evaluating the results of the implementation plan;

(6) a statement of the effect of the plan on the responsibilities of other governmental units;

(7) the services and systems management component required by subdivision 1c and the capital investment component required by subdivision 1d; and

(8) other information that the council or agency deems appropriate.

Subd. 1c. Services and systems management. The plan must include a services and systems management component that describes the levels and costs of services that will be provided to service areas and populations within the metropolitan area. The component must describe: (1) service needs, objectives, and priorities; (2) changes in existing services; (3) deployment of new services; (4) distribution and coordination of services; (5) timing, priority, and location, with maps, of service areas, routes, levels of service, and similar matters, as appropriate to the type of service; (6) delivery methods and providers; (7) system management and administration; (8) costs; (9) manner of finance and revenue sources, including federal and state funds, private funds, taxes, and user charges; and (10) fiscal effects.

Subd. 1d. Capital investment. The plan must include a capital investment component that sets forth a capital investment strategy and estimates the fiscal and other effects of the strategy. The component must specify, to the extent practicable, the capital improvements to be undertaken. For each improvement specified, the plan must describe: (1) need, function, objective, and relative priority; (2) alternatives, including alternatives not involving capital expenditures; (3) ownership and operating entity; (4) location and schedule of development; (5) environmental, social, and economic effects; (6) cost; (7) manner of finance and revenue sources, including federal and state funds, private funds, taxes, and user charges; and (8) fiscal effects, including an estimate of annual operating costs and sources of revenue to pay the costs.

Subd. 2. Procedure; review and approval by council. The implementation plan prepared by the metropolitan agency must be submitted to the council for review at the time or times stated in the policy plan. The agency shall hold a public hearing on the plan before submitting it to the council and shall transmit a report of the hearing to the council along with the plan. The council shall complete its review within 90 days after receipt of the proposed implementation plan. In the course of its review of the implementation plan the council shall publish an analysis and evaluation of the success of the agency in effectuating the council's policy plan. If the council determines that the implementation plan is consistent with the policy plan it shall approve the plan as submitted. If it determines that the implementation plan or part thereof is inconsistent with the policy plan, it shall disapprove it and require the submitting agency to make revisions in the implementation plan necessary to bring it into conformance with the policy plan. The agency shall make the revisions required by the council within 60 days, or a longer period agreed to by the council, and resubmit the plan to the council for review. If the agency does not make the revisions required by the council in the time allowed, the council shall hold a public hearing on the matter in dispute. At the hearing the council shall make an affirmative presentation of its position on the required revisions, shall allow the agency to present its objections to the revisions, and shall allow all persons to present their views on the matter. Following the hearing the council shall prepare a report on the hearing, including a summary of the disagreeing positions of the council and the agency, and shall make a final decision on the revision. If the council decides to require revision, the council's decision shall contain specific changes in the implementation plan. The changes contained in the council's decision are binding on the agency and are part of the implementation plan required to be adopted and implemented by the agency under subdivision 3.

Subd. 2a. Amendment. At least biennially each metropolitan agency shall review the implementation plan, make the revisions necessary and submit the plan to the council for its review as provided in this section.

Subd. 3. Adoption; effect. The metropolitan agency shall adopt and implement the implementation plan, with the revisions required by the council, within 60 days following council approval. The activities of the agency, including its priorities and

timing, must be consistent with its approved and adopted implementation plan or be specifically approved by the council. The council may not approve any activity not in substantial conformance with the appropriate policy plan.

History: 1975 c 13 s 12; 1986 c 460 s 17; 1987 c 278 s 3

473.1623 METROPOLITAN COUNCIL; METROPOLITAN AGENCIES; FINANCIAL REPORTING AND MANAGEMENT.

Subdivision 1. Purpose. The purpose of this section is to enhance the efficiency, effectiveness, and responsiveness of metropolitan agencies and services, by improving coordination among metropolitan agencies in financial reporting and management for metropolitan systems and services.

Subd. 2. Financial reporting and management advisory committee. A financial reporting and management advisory committee is created, consisting of the chairs of the council and the following metropolitan agencies: the waste control commission, transit board, transit commission, metropolitan airports commission, and sports facilities commission. The committee is established to assist and advise the council and other governing boards in meeting the requirements of this section. Staff and administrative services for the committee must be provided by the council and the member agencies. Other agencies shall make financial information available upon request.

Subd. 3. Financial report. By December 15 of even-numbered years, the council, in consultation with the advisory committee, shall publish a consolidated financial report for the council and all metropolitan agencies and their functions, services, and systems. The financial report must cover the calendar year in which the report is published and the two years preceding and three years succeeding that year. The financial report must contain the following information, for each agency, function, or system, respectively, and in the aggregate, in a consistent format that allows comparison over time and among agencies in expenditure and revenue categories:

- (1) financial policies, goals, and priorities;
- (2) levels and allocation of public expenditure, including capital, debt, operating, and pass-through funds, stated in the aggregate and by appropriate functional, programmatic, administrative, and geographic categories, and the changes in expenditure levels and allocations that the report represents;
- (3) the resources available under existing fiscal policy;
- (4) additional resources, if any, that are or may be required;
- (5) changes in council or agency policies on regional sources of revenue and in levels of debt, user charges, and taxes;
- (6) other changes in existing fiscal policy, on regional revenues and intergovernmental aids respectively, that are expected or that have been or may be recommended by the council or the respective agencies;
- (7) an analysis that links, as far as practicable, the uses of funds and the sources of funds, by appropriate categories and in the aggregate;
- (8) a description of how the fiscal policies effectuate current policy and implementation plans of the council and agencies concerned; and
- (9) a summary of significant changes in council and agency finance and an analysis of fiscal trends.

The council shall present the report for discussion and comment at a public meeting in the metropolitan area and request, in writing, an opportunity to make presentations on the report before appropriate committees of the legislature.

Subd. 4. Financial reporting; budgeting. (a) The advisory committee, with the assistance of the state auditor and the legislative auditor, shall develop uniform or consistent standards, formats, and procedures for the budgets and financial reports of the council and all metropolitan agencies. The council shall report to the legislature from time to time on progress made by the committee in improving the uniformity and quality of budgets and financial reports and on legislation that may be needed for this purpose.

(b) The council and each metropolitan agency shall prepare a summary budget for agency fiscal year 1988 and each year thereafter. The advisory committee, with the assistance of the state auditor and the legislative auditor, shall develop guidelines and models for the summary budgets. The purpose of the summary budget is to increase public knowledge and agency accountability by providing citizens outside of the agency with a condensed, accessible, and graphic description of the financial affairs of the agency. The document should contain a coherent, effectively communicated, understandable statement of: financial trends and forecasts; budget policies and policy changes; agency financial assumptions, objectives and plans; revenue sources and expenditures by program category; personnel policies, decisions, and allocation; budgetary performance measures; and similar matters serving the purpose of the document.

(c) The council and each metropolitan agency shall include in the annual budget:

(1) a statement of the reserve or fund balance carried forward at the end of the budget year, for at least the two preceding fiscal years;

(2) a comparison of budgeted and actual expenditures, reported by department and, if the agency has a program budget, by program, for at least the two preceding fiscal years; and

(3) a listing of proposed or anticipated consulting contracts or projects and the amount of each contract or project.

Subd. 5. Administrative coordination. The advisory committee shall evaluate the benefits, costs, methods, and effects, including operational effects, of joint or uniform and coordinated exercise of powers by the council and metropolitan agencies for appropriate administrative functions. The study must include at least ongoing managerial reporting, contracts, purchasing, data processing, and personnel. The council shall report to the legislature from time to time on the findings and recommendations of the advisory committee to date and on legal and other impediments to increased coordination of administrative functions. Before submitting the report, the council shall request comments on the report from the affected metropolitan agencies, and the comments must be submitted along with the report.

Subd. 6. Personnel and ethical practices; communication. By January 1 of each year, the council and each agency represented on the advisory committee established under this section shall report to the legislature on the following:

(1) agency personnel practices, including an analysis of trends, compliance with legal requirements, health care and other benefits, and salary levels in comparison with relevant job markets; and

(2) ethical practices requirements for board members and employees of each agency, including the sources of the requirements, agency comparisons, and comparison with requirements for state and local government officers and employees; and

(3) the activities undertaken by each agency board member and council member to regularly meet with and communicate with local officials and legislators in the member's district about issues before the agency or council.

The report on employee salaries under clause (1) must include details of: all lump sum payments or bonuses; and a description of all payments, expense accounts, allowances, including travel allowances, and other current benefits granted to individuals that are not made generally available to employees of the council or agency.

History: 1986 c 460 s 18; 1987 c 278 s 4-7; 1988 c 675 s 4,5

473.163 METROPOLITAN AGENCY BUDGET PREPARATION; REVIEW AND APPROVAL.

Subdivision 1. Requirement. Each metropolitan agency that is subject to this section by its enabling law shall prepare a proposed budget by August 1 of each year. The budget must be consistent with and effectuate the implementation plan. The budget must show for each year:

(a) 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;

(b) 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

(c) The estimated source and use of pass-through funds.

Subd. 2. Procedure; approval of council. As early as practicable before August 15 of each year, the agency shall hold a public hearing on a draft of the proposed budget. Along with the draft, the agency shall publish a report on user charges. The report must include an estimate and analysis of the changes in user charges, rates, and fees that will be required by the agency's budget. Not less than 14 days before the hearing, the agency 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 agency shall publish a report of the hearing that summarizes the comments received and the agency's response. Until the budget for agency fiscal year 1990, those parts of the budget relating to revenues and expenditures for capital improvements must be submitted to the council by August 15 of each year for review and approval by the council. If council approval is required the council shall act to approve or disapprove by October 1 of each year. Before December 15 of each year the agency shall by resolution adopt a final budget. Each agency 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.

Subd. 2a. Effect. Except in an emergency, for which procedures must be established by the agency, the agency and its officers, agents and employees may not spend money for any purpose, other than debt service, without an appropriation by the agency, 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 approval of the council, if required under subdivision 2, the agency 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.

Subd. 3. [Repealed, 1986 c 460 s 59]

Subd. 4. [Repealed, 1986 c 460 s 59]

History: 1975 c 13 s 13; 1980 c 509 s 171; 1986 c 460 s 19,20

473.164 PAYMENT OF METROPOLITAN COUNCIL COSTS.

Subdivision 1. The metropolitan parks and open space commission, the regional transit board, the metropolitan waste control commission, and the metropolitan airports commission shall annually reimburse the council for costs incurred by the council in the discharge of its responsibilities relating to the commission or board. The costs may be charged against any revenue sources of the commission or board as determined by the commission or board.

Subd. 2. On or before May 1 of each year, the council shall transmit to each commission or board an estimate of the costs which the council will incur in the discharge of its responsibilities related to the commission or board in the next budget year including, without limitation, costs in connection with the preparation, review, implementation and defense of plans, programs and budgets of the commission or board. Each commission or board shall include the estimates in its budget for the next

budget year and may transmit its comments concerning the estimated amount to the council during the budget review process. Prior to December 15 of each year, the amount budgeted by each commission or board for the next budget year may be changed following approval by the council. During each budget year, the commission or board shall transfer budgeted funds to the council in advance when requested by the council.

Subd. 3. At the conclusion of each budget year, the council, in cooperation with each commission or board, shall adopt a final statement of costs incurred by the council for each commission or board. Where costs incurred in the budget year have exceeded the amount budgeted, each commission or board shall transfer to the council the additional moneys needed to pay the amount of the costs in excess of the amount budgeted, and shall include a sum in its next budget. Any excess of budgeted costs over actual costs may be retained by the council and applied to the payment of budgeted costs in the next year. Costs incurred during 1976 shall be reimbursed to the council on or before December 31, 1976 following receipt and in accordance with a statement of costs transmitted by the council. Notwithstanding the provisions of this section, after July 1, 1981, the metropolitan council shall not charge the regional transit board for any costs incurred by the council for the study of light rail transit unless the study plan and budget have been approved by the board.

History: 1976 c 321 s 3; 1981 c 363 s 50; 1984 c 654 art 3 s 110

473.165 COUNCIL REVIEW; INDEPENDENT COMMISSIONS, BOARDS, AND AGENCIES.

(1) The metropolitan council shall review all long-term comprehensive plans of each independent commission, board, or agency prepared for its operation and development within the metropolitan area but only if such plan is determined by the council to have an areawide effect, a multicomunity effect, or to have a substantial effect on metropolitan development. Each plan shall be submitted to the council before any action is taken to place the plan or any part thereof, into effect.

(2) No action shall be taken to place any plan or any part thereof, into effect until 60 days have lapsed after the date of its submission to the council, or until the council finds and notifies the submitting commission, board, or agency that the plan is consistent with its comprehensive guide for the metropolitan area and the orderly and economic development of the metropolitan area, whichever first occurs. If, within 60 days after the date of submission, the council finds that a plan, or any part thereof, is inconsistent with its comprehensive guide for the metropolitan area or detrimental to the orderly and economic development of the metropolitan area, or any part thereof, it may direct that the operation of the plan, or such part thereof, be indefinitely suspended; provided that the council shall not direct the suspension of any plan or part thereof of any sanitary sewer district operating within the metropolitan area which pertains to the location and construction of a regional sewer plant or plants or the expansion or improvement of the present Minneapolis-St. Paul sanitary district treatment plant. An affected commission, board, or agency may appeal the decision of the metropolitan council suspending a plan, or part thereof, to the entire membership of the metropolitan council for public hearing. If the metropolitan council and the affected commission, board, or agency are unable to agree as to an adjustment of the plan, so that it may receive the council's approval, then a record of the disagreeing positions of the metropolitan council and the affected commission, board, or agency shall be made and the metropolitan council shall prepare a recommendation in connection therewith for consideration and disposition by the next regular session of the legislature.

History: 1975 c 13 s 14

473.167 HIGHWAY PROJECTS.

Subdivision 1. **Controlled access highways: council approval.** Before acquiring land for or constructing a controlled access highway in the area, the state transportation

department or local government unit proposing the acquisition or construction shall submit to the council a statement describing the proposed project. The statement must be in the form and detail required by the council. Immediately upon receipt of the statement, the council shall transmit a copy to the regional transit board, which shall review and evaluate the project in relationship to the board's implementation plan and report its recommendations and comments to the council. The council shall also review the statement to ascertain its consistency with its policy plan and the development guide. No project may be undertaken unless the council determines that it is consistent with the policy plan and implementation plan. This approval is in addition to the requirements of any other statute, ordinance or rule.

Subd. 2. Loans for acquisition. The council may make loans to counties, towns, and statutory and home rule charter cities within the metropolitan area for the purchase of property within the right-of-way of a state trunk highway shown on an official map adopted pursuant to section 394.361 or 462.359 or for the purchase of property within the proposed right-of-way of a principal or intermediate arterial highway designated by the council as a part of the metropolitan highway system plan and approved by the council pursuant to subdivision 1. The loans shall be made by the council, from the fund established pursuant to this subdivision, for purchases approved by the council. The loans shall bear no interest. The council shall make loans only: (1) to accelerate the acquisition of primarily undeveloped property when there is a reasonable probability that the property will increase in value before highway construction, and to update an expired environmental impact statement on a project for which the right-of-way is being purchased; or (2) to avert the imminent conversion or the granting of approvals which would allow the conversion of property to uses which would jeopardize its availability for highway construction. The council shall not make loans for the purchase of property at a price which exceeds the fair market value of the property or which includes the costs of relocating or moving persons or property. A private property owner may elect to receive the purchase price either in a lump sum or in not more than four annual installments without interest on the deferred installments. If the purchase agreement provides for installment payments, the council shall make the loan in installments corresponding to those in the purchase agreement. The recipient of an acquisition loan shall convey the property for the construction of the highway at the same price which the recipient paid for the property. Upon notification by the council that the plan to construct the highway has been abandoned or the anticipated location of the highway changed, the recipient shall sell the property at market value in accordance with the procedures required for the disposition of the property. All rents and other money received because of the recipient's ownership of the property and all proceeds from the conveyance or sale of the property shall be paid to the council. The proceeds of the tax authorized by subdivision 3, all money paid to the council by recipients of loans, and all interest on the proceeds and payments shall be maintained as a separate fund. For administration of the loan program the council may expend from the fund each year an amount no greater than three percent of the amount of the authorized levy for that year.

Subd. 2a. Hardship acquisition and relocation. (a) The council may make hardship loans to acquiring authorities within the metropolitan area to purchase homestead property located in a proposed state trunk highway right-of-way or project, and to provide relocation assistance. Acquiring authorities are authorized to accept the loans and to acquire the property. Except as provided in this subdivision, the loans shall be made as provided in subdivision 2. Loans shall be in the amount of the appraised fair market value of the homestead property plus relocation costs and less salvage value. Before construction of the highway begins, the acquiring authority shall convey the property to the commissioner of transportation at the same price it paid, plus relocation costs and less its salvage value. Acquisition and assistance under this subdivision must conform to sections 117.50 to 117.56.

(b) The council may make hardship loans only when:

(1) the owner of affected homestead property requests acquisition and relocation assistance from an acquiring authority;

(2) federal or state financial participation is not available;

(3) the owner is unable to sell the homestead property at its appraised market value because the property is located in a proposed state trunk highway right-of-way or project as indicated on an official map or plat adopted under section 160.085, 394.361, or 462.359;

(4) the appraisal of the fair market value of the homestead property has been approved by the council. The council's approval shall not be unreasonably withheld; and

(5) the owner of the homestead property is burdened by circumstances that constitute a hardship, such as catastrophic medical expenses; a transfer of the homestead owner by the owner's employer to a distant site of employment; or inability of the owner to maintain the property due to physical or mental disability or the permanent departure of children from the homestead.

(c) For purposes of this subdivision, the following terms have the meanings given them.

(1) "Acquiring authority" means counties, towns, and statutory and home rule charter cities in the metropolitan area.

(2) "Homestead property" means a single-family dwelling occupied by the owner, and the surrounding land, not exceeding a total of ten acres.

(3) "Salvage value" means the probable sale price of the dwelling and other property that is severable from the land if offered for sale on the condition that it be removed from the land at the buyer's expense, allowing a reasonable time to find a buyer with knowledge of the possible uses of the property, including separate use of serviceable components and scrap when there is no other reasonable prospect of sale.

Subd. 3. **Tax.** The council may levy a tax on all taxable property in the metropolitan area, as defined in section 473.121, to provide funds for loans made pursuant to subdivisions 2 and 2a. This tax for the right-of-way acquisition loan fund shall be certified by the council, levied, and collected in the manner provided by section 473.13. The tax shall be in addition to that authorized by section 473.249 and any other law and shall not affect the amount or rate of taxes which may be levied by the council or any metropolitan agency or local governmental unit. The amount of the levy shall be as determined and certified by the council, except as otherwise provided in this subdivision.

The property tax levied by the metropolitan council for the right-of-way acquisition loan fund shall not exceed the following amount for the years specified:

(a) for taxes payable in 1988, the product of 5/100 of one mill multiplied by the total assessed valuation of all taxable property located within the metropolitan area as adjusted by the provisions of Minnesota Statutes 1986, sections 272.64; 273.13, subdivision 7a; and 275.49;

(b) for taxes payable in 1989, except as provided in section 473.249, subdivision 3, the product of (1) the metropolitan council's property tax levy limitation for the right-of-way acquisition loan fund for the taxes payable year 1988 determined under clause (a) multiplied by (2) an index for market valuation changes equal to the assessment year 1988 total market valuation of all taxable property located within the metropolitan area divided by the assessment year 1987 total market valuation of all taxable property located within the metropolitan area; and

(c) for taxes payable in 1990 and subsequent years, the product of (1) the metropolitan council's property tax levy limitation for the right-of-way acquisition loan fund for the previous year determined pursuant to this subdivision multiplied by (2) an index for market valuation changes equal to the total market valuation of all taxable property located within the metropolitan area for the current assessment year divided by the total market valuation of all taxable property located within the metropolitan area for the previous assessment year.

For the purpose of determining the metropolitan council's property tax levy limitation for the right-of-way acquisition loan fund for the taxes payable year 1988 and

subsequent years under this subdivision, "total market valuation" means the total market valuation of all taxable property within the metropolitan area without valuation adjustments for fiscal disparities (chapter 473F), tax increment financing (sections 469.174 to 469.179), and high voltage transmission lines (section 273.425).

The property tax levied under this subdivision for taxes payable in 1988 and subsequent years shall not be levied at a rate higher than that determined by the metropolitan council to be sufficient, considering the other anticipated revenues of and disbursements from the right-of-way acquisition loan fund, to produce a balance in the loan fund at the end of the next calendar year equal to twice the amount of the property tax levy limitation for taxes payable in the next calendar year determined under this section.

Subd. 4. State review. The commissioner of revenue shall annually determine whether the property tax for the right-of-way acquisition loan fund certified by the metropolitan council for levy following the adoption of its budget is within the levy limitation imposed by this section. To the extent practicable, the determination must be completed prior to November 1 of each year. If current information regarding market valuation in any county is not transmitted to the commissioner in a timely manner, the commissioner may estimate the current market valuation within that county for purposes of making the calculation.

Subd. 5. Levy increase. For the purpose of determining the levy limitation for taxes payable in 1989 under subdivision 3, the levy limitation for taxes payable in 1988 shall be multiplied by two. The levy limitation so determined for taxes payable in 1989 shall be the basis for determining levy limitations for taxes payable in 1990 and subsequent years under subdivision 3.

History: 1975 c 13 s 15; 1976 c 166 s 7; 1982 c 520 s 4; 1984 c 654 art 3 s 111; 1985 c 47 s 1,2; 1985 c 248 s 70; 1986 c 444; 1986 c 460 s 21; 1988 c 675 s 6-9

473.168 FREEWAY EXCLUSIVE LANES.

Subdivision 1. For the purpose of this section, "freeway" means a completely controlled access highway where ingress and egress is allowed only at certain designated points as determined by the road authority having jurisdiction over the highway.

Subd. 2. The metropolitan council in consultation with the regional transit board may require that any freeway constructed in the metropolitan area on which actual construction has not been commenced by April 12, 1974 include provisions for exclusive lanes for buses and, as the council may determine, other forms of multipassenger transit. The council, in making its determination, must demonstrate that the exclusive lanes are necessary to implement the transportation policy plan of the development guide.

History: 1975 c 13 s 16; 1984 c 654 art 3 s 112

473.169 LIGHT RAIL TRANSIT; DESIGN PLANS.

Subdivision 1. Requirement. Before constructing a light rail transit facility, the political subdivision proposing the facility must hold a public hearing on the preliminary design plans as provided in subdivision 2, and submit the preliminary and final design plans for review as provided in subdivisions 3 to 5. The design plans must include a plan for handicapped accessibility.

Subd. 2. Preliminary design plans; public hearing. Before preparing final design plans for a light rail transit facility, the political subdivision proposing the facility must hold a public hearing on the preliminary design plans. The proposer must provide appropriate public notice of the hearing and publicity to ensure that affected parties have an opportunity to present their views at the hearing.

Subd. 3. Preliminary design plans; local approval. At least 30 days before the hearing under subdivision 2, the proposer must submit the preliminary design plans to the governing body of each statutory and home rule charter city, county, and town in which the route is proposed to be located. The city, county, or town must hold a

public hearing. Within 45 days after the hearing under subdivision 2, the city, county, or town must review and approve or disapprove the plans for the route to be located in the city, county, or town. Failure to approve or disapprove the plans in writing within 45 days after the hearing is deemed to be approval, unless an extension of time is agreed to by the city, county, or town and the proposer. If the preliminary design plans are approved by each city, county, and town in which the route is proposed to be located, the proposer may proceed with final design plans under subdivision 5.

Subd. 4. Preliminary design plans; metropolitan council referral. If the governing body of one or more cities, counties, or towns disapproves the preliminary design plans within the period allowed under subdivision 3, the proposer may refer the plans to the metropolitan council. The council must hold a hearing, giving the proposer and the disapproving local governmental units an opportunity to present the case for or against approval of the plans. The council may conduct independent study as it deems desirable and may mediate and attempt to resolve disagreements about the plans. Within 90 days after the referral, the council must either approve the plans as submitted by the proposer or recommend amended plans to accommodate the objections presented by the disapproving local governmental units. Failure to respond within the time period is deemed to be approval, unless an extension of time is agreed to by the council and the proposer. Following approval or recommendation of preliminary design plans by the council, the proposer may proceed with final design plans under subdivision 5.

Subd. 5. Final design plans. (a) After the approval of preliminary design plans under subdivision 3 or review by the council following referral to the council under subdivision 4, the proposer may prepare final design plans.

(b) Before proceeding with construction, the proposer must submit the final design plans to the governing body of each statutory and home rule city, county, and town in which the route is proposed to be located. Within 60 days after the submission of the plans, the city, county, or town must review and approve or disapprove the plans for the route located in the city, county, or town. Failure to approve or disapprove the plans in writing within the time period is deemed to be approval, unless an extension is agreed to by the city, county, or town and the proposer. If the final design plans are approved by each city, county, and town in which the route is proposed to be located, the proposer may proceed with construction on that route.

(c) If the governing body of one or more cities, counties, or towns disapproves the final design plans within the period allowed under paragraph (b), the proposer may refer the plans to the metropolitan council. The council must review the final design plans under the same procedure and with the same effect as provided in subdivision 4 for preliminary design plans. Following approval or recommendation of final design plans by the council, the proposer may proceed with construction.

Subd. 6. County approval. The proposer of a light rail transit facility in the metropolitan area must submit the preliminary and final design plans for the facility to the governing board of the county in which the route is proposed to be located for approval or disapproval. The proposer of the facility may not proceed with construction of the facility without the approval of the county.

Subd. 7. Council review. Before proceeding with construction of a light rail transit facility, a regional rail authority established under chapter 398A must submit preliminary and final design plans to the metropolitan council. The council must review the plans for consistency with the council's development guide and comment on the plans.

Subd. 8. Metropolitan significance. This section does not diminish or replace the authority of the council under section 473.173.

History: 1987 c 405 s 2

473.1691 LIGHT RAIL TRANSIT PLANS; METROPOLITAN REVIEW.

The council and the regional transit board shall review and comment on comprehensive light rail transit plans and preliminary design plans of regional railroad authorities. The council and the board shall conduct their review and comment before the

regional railroad authority prepares final design plans. The council and the board may undertake the study necessary for this review, in accordance with the provisions of section 473.17 and notwithstanding the provisions of section 473.398.

The council and the board shall review comprehensive light rail transit plans in accordance with Laws 1987, chapter 405, section 6. The council and the board in reviewing the comprehensive light rail transit plans, and the authority in preparing those plans, shall, to the extent practicable, ensure the acquisition, lease, or preservation of the right-of-way for planned light rail transit corridors, so that the planned corridors are ready for construction and development and so that corridor development and priorities are not determined by right-of-way ownership.

The authority's light rail transit plans shall provide for the staged development of the light rail transit system.

The light rail transit plans and the comments of the council and the board must be transmitted to the legislature.

History: 1988 c 675 s 10

473.17 COOPERATION IN LIGHT RAIL TRANSIT.

Notwithstanding section 473.398, the metropolitan council and the regional transit board shall cooperate with regional rail authorities in the study, planning, and design of regional rail authority light rail transit systems, and the metropolitan transit commission shall cooperate with regional rail authorities in the operational planning and operation of regional rail authority light rail transit systems.

History: 1987 c 405 s 3; 1988 c 684 art 2 s 5

473.171 COUNCIL REVIEW; APPLICATIONS FOR FEDERAL AND STATE AID.

Subdivision 1. The council shall review all applications of a metropolitan agency, independent commission, board or agency, and local governmental units for funds, grants, loans or loan guarantees from the United States of America or agencies thereof submitted in connection with proposed matters of metropolitan significance, all other applications by metropolitan agencies, independent commissions, boards and agencies, and local governmental units for grants, loans, or loan guarantees from the United States of America or any agency thereof if review by a regional agency is required by federal law or the federal agency, and all applications for grants, loans, or allocations from funds made available by the United States of America to the metropolitan area for regional facilities pursuant to a federal revenue sharing or similar program requiring that the funds be received and granted or allocated or that the grants and allocations be approved by a regional agency.

Subd. 2. The council shall review all applications or requests of a metropolitan agency, independent commission, board or agency, and local governmental units for state funds allocated or granted for proposed matters of metropolitan significance, and all other applications by metropolitan agencies, independent commissions, boards, agencies, and local governmental units for state funds if review by a regional agency is required by state law or the granting state agency.

History: 1975 c 13 s 17; 1986 c 460 s 22,23

473.173 COUNCIL REVIEW; METROPOLITAN SIGNIFICANCE.

Subdivision 1. The council shall review all proposed matters of metropolitan significance to be undertaken by any private organization, independent commission, board or agency, local governmental unit, or any state agency in accordance with the rules adopted pursuant to this section and the provisions of any other relevant statute.

Subd. 2. By September 1, 1976, the council shall adopt and put into effect rules establishing standards, guidelines and procedures for determining whether any proposed matter is of metropolitan significance, and establishing a procedure for the review of and final determination on such matters in accordance with the powers and

requirements set forth in this section. The purpose of these rules shall be to promote the orderly and economic development, public and private, of the metropolitan area.

Subd. 3. In developing the rules the council and the advisory metropolitan land use committee, as defined in section 473.852, shall give consideration to all factors deemed relevant including but not limited to the following:

(1) The impact a proposed matter will have on the orderly, economic development, public and private, of the metropolitan area and its consistency with the metropolitan development guide;

(2) The relationship a proposed matter will have to the policy statement goals, standards, programs and other applicable provisions of the development guide;

(3) The impact a proposed matter will have on policy plans adopted by the council and on the implementation plans and functions performed and to be performed by a metropolitan agency that is subject to section 473.161;

(4) Functions of municipal governments in respect to control of land use as provided for under the municipal planning act.

Subd. 4. The rules shall include, without limitation, provisions to effectuate and comply with the following powers and requirements:

(1) No applicant shall be required to submit a proposed matter for review more than once unless it is materially altered.

(1a) A public hearing shall be held prior to the final determination with regard to a proposed matter.

(2) The council shall be empowered to suspend action on a proposed matter during the period of review and for a period not to exceed 12 months following the issuance of its final determination. In its final determination, the council may prescribe appropriate conditions with regard to a proposed matter which, if incorporated or complied with, would cause the council to remove the suspension.

(3) The council's recommendation or determination concerning a proposed matter, including the determination as to its metropolitan significance, shall be issued within 90 days following its receipt of a proposal accompanied by adequate supporting information. To avoid duplication, the review may be suspended for not more than 90 days to await completion of review of a matter by another public agency.

(4) The council shall be required to review a proposed matter upon request of an affected local governmental unit or metropolitan agency that is subject to section 473.161. The rules shall include a procedure for review of a proposed matter upon petition by a specified number of residents of the metropolitan area 18 years of age or older.

(5) The council shall be empowered to review all proposed matters of metropolitan significance regardless of whether the council has received a request from an affected body to conduct that review.

(6) The council shall review all proposed matters determined to be of metropolitan significance as to their consistency with and effect upon metropolitan system plans as defined in section 473.852 and their adverse effects on other local governmental units.

(7) Previously approved policy plans and implementation plans and areas of operational authority of metropolitan agencies that are subject to section 473.161 shall not be subject to review under this section, except as specifically provided in section 473.171.

Subd. 5. The rules and any major alteration or amendment thereto shall be developed and promulgated by the council in accordance with the provisions of this section and, to the extent not inconsistent or at variance with this section, in accordance with the administrative procedure act, chapter 14, and rules pursuant to thereto. Once the development of all of the rules has been completed by the council and the committee, and no later than 30 days prior to the date specified for their adoption, the council shall hold a public hearing for the purpose of considering the developed rules and receiving comments and recommendations thereon. Notice of the hearing shall

be published in appropriate newspapers of general circulation in the metropolitan area and mailed to all persons who have registered for that purpose under chapter 14, appropriate state and regional agencies and all cities, counties, towns, school districts, and watershed districts within the metropolitan area no later than 30 days prior to the hearing. In adopting or amending the rules the enactment of this section shall be deemed to establish or show the need for and to provide evidence in support of the rules or amendments as required in chapter 14, and rules pursuant thereto, but the council shall prepare for distribution a written summary describing the basis for the composition of the draft rules or amendments submitted for hearing and shall afford to all interested persons an opportunity at the hearing to question and make suggestions concerning their composition. Following the hearing, the council may revise the proposed rules, giving consideration to all comments received, and thereafter the council shall finally adopt these rules.

Subd. 6. The council and the advisory metropolitan land use committee shall review and assess the rules following their effective date and at least every two years thereafter. No major alteration or amendments to standards for determining metropolitan significance shall be put into effect by the council until 90 days have elapsed following a report to the legislature in which the alteration or amendment was proposed and recommended by the council in the form of a proposed rule published under section 14.14, subdivision 1a, or 14.22. The report to the legislature must be made during the month of January.

History: 1975 c 13 s 18; 1976 c 321 s 2; 1982 c 424 s 130; 1985 c 248 s 70; 1986 c 460 s 24,25; 1988 c 675 s 11

473.175 COUNCIL REVIEW; COMPREHENSIVE PLANS, SCHOOL DISTRICT CAPITAL IMPROVEMENT PROGRAMS.

Subdivision 1. The council shall review the comprehensive plans of local governmental units and the capital improvement programs of school districts, prepared and submitted pursuant to Laws 1976, chapter 127, sections 1 to 23, to determine their compatibility with each other and conformity with metropolitan system plans. The council shall review and comment on the apparent consistency of the comprehensive plans and capital improvement programs with other adopted chapters of the metropolitan development guide. The council may require a local governmental unit to modify any comprehensive plan or part thereof which may have a substantial impact on or contain a substantial departure from metropolitan system plans.

Subd. 2. Within 120 days following receipt of a capital improvement program of a school district, unless a time extension is mutually agreed to, the council shall return to the school district a statement containing its comments. Within 120 days following receipt of a comprehensive plan of a local governmental unit, unless a time extension is mutually agreed to, the council shall return to the local governmental unit a statement containing its comments and, by resolution, its decision, if any, to require modifications to assure conformance with the metropolitan system plans.

No action shall be taken by any local governmental unit or school district to place any such comprehensive plan, capital improvement program or part thereof into effect until the council has returned the statement to the unit or district and until the local governmental unit has incorporated any modifications in the plan required by a final decision, order, or judgment made pursuant to section 473.866. Promptly after submission, the council shall notify each city, town, county, or special district which may be affected by the plans or programs submitted, of the general nature of the plans or programs, the date of submission, and the identity of the submitting unit or district. Political subdivisions contiguous to or within the submitting unit or district shall be notified in all cases. Within 30 days after receipt of such notice any governmental unit or district so notified or the local governmental unit or district submitting the plan or program may request the council to conduct a hearing at which the submitting unit or district and any other governmental unit or subdivision may present its views. The council may attempt to mediate and resolve differences of opinion which exist among

the participants in the hearing with respect to the plans or programs submitted. If within 120 days, unless a time extension is mutually agreed to, the council fails to complete its written statement the plans or programs shall be deemed approved and may be placed into effect. Any amendment to a plan or program subsequent to the council's review shall be submitted to and acted upon by the council in the same manner as the original plan or program. The written statement of the council shall be filed with the plan of the local government unit or the program of the school district at all places where the plan or program is required by law to be kept on file.

Subd. 3. If a local governmental unit fails to adopt a comprehensive plan in accordance with Laws 1976, chapter 127, sections 1 to 23 or if the council after a public hearing by resolution finds that a plan substantially departs from metropolitan system plans and that the local governmental unit has not adopted a plan with modifications required pursuant to section 473.866 within nine months following a final decision, order, or judgment made pursuant to section 473.866, the council may commence civil proceedings to enforce the provisions of Laws 1976, chapter 127, sections 1 to 23 by appropriate legal action in the district court where the local governmental unit is located.

History: 1975 c 13 s 19; 1976 c 127 s 14; 1977 c 347 s 68

473.181 ADDITIONAL COUNCIL REVIEW POWERS.

Subdivision 1. **Trunk highways.** The council shall review proposed trunk highway construction pursuant to sections 161.171 et seq.

Subd. 2. **Parks.** The council shall review local government park master plans pursuant to section 473.313. The metropolitan council shall approve the use of moneys made available for land acquisition to local units of government from the land and conservation fund, the open space program of HUD, the natural resources account in the state treasury, if the use thereof conforms with the system of priorities established by law as part of a comprehensive plan for the development of parks; otherwise it shall disapprove of the use thereof.

Subd. 3. **Metropolitan transit commission.** The council shall review acquisition of public transit systems and the issuance of revenue bonds by the metropolitan transit commission pursuant to section 473.405, subdivision 5.

Subd. 4. **Solid waste.** The council shall review solid waste management activities of local government units as provided in sections 473.801 to 473.834 and 115A.80 to 115A.89.

Subd. 5. **Airports.** The council shall review metropolitan airports commission capital projects pursuant to section 473.621, subdivision 6. The plans of the metropolitan airports commission and the development of the metropolitan airports system by the commission shall, as provided in sections 473.611, subdivision 5, and 473.655, be consistent with the development guide of the council.

History: 1975 c 13 s 20; 1984 c 644 s 60; 1984 c 654 art 3 s 113; 1987 c 384 art 2 s 102

473.191 LOCAL PLANNING ASSISTANCE.

Subdivision 1. The metropolitan council may, at the request of local governmental units, enter into contracts or make other arrangements with local governmental units and others for the provision of services for and assistance with comprehensive community planning. This may include:

(a) Assistance in the preparation, as a guide for long-range development, of general physical plans with respect to the pattern and intensity of land use and the provision of public facilities together with long-range fiscal plans for such development;

(b) Programming of capital improvements based on a determination of relative urgency, together with definitive financing plans for the improvements to be constructed in the earlier years of the program;

(c) Coordination of all related plans of the departments or subdivision of the government concerned;

(d) Intergovernmental coordination of all related planned activities among the state and local governmental agencies concerned; and

(e) Preparation of regulatory and administrative measures in support of the foregoing.

Subd. 2. The metropolitan council may provide technical assistance to cities, counties and towns to expedite adoption and enforcement of local ordinances under sections 104.04, 105.485 and 473.204 to 473.208.

History: 1975 c 13 s 21; 1987 c 384 art 2 s 1

473.192 AIRCRAFT NOISE ATTENUATION.

Subdivision 1. **Citation.** This section may be cited as the "metropolitan area aircraft noise attenuation act."

Subd. 2. **Definitions.** For purposes of this section, "metropolitan area" has the meaning given it in section 473.121, subdivision 2. "Aviation policy plan" means the plan adopted by the metropolitan council pursuant to section 473.145. "Municipality" has the meaning provided by section 462.352, subdivision 2.

Subd. 3. **Ordinance.** A municipality in the metropolitan area that, in part or in whole, is within the aircraft noise zones designated in the aviation policy plan may adopt and enforce ordinances and controls to regulate building construction methods and materials for the purpose of attenuating aircraft noise in habitable buildings in and around the noise zone. The ordinance or control shall not apply to remodeling or rehabilitating an existing residential building nor to the construction of an appurtenance to an existing residential building. An ordinance adopted by a municipality must be adequate to implement the metropolitan council's guidelines for land use compatibility with aircraft noise. Section 16B.62 does not apply to ordinances adopted under this section.

Subd. 4. **Metropolitan airports commission; noise abatement.** Nothing in this section shall be construed to diminish the responsibility of the metropolitan airports commission to conduct noise abatement programs under section 473.612 or any other state or federal law.

History: 1987 c 155 s 1

473.193 [Repealed, 1986 c 460 s 59]

473.194 DEFINITIONS.

For the purposes of sections 473.194 to 473.201, the terms defined in the municipal housing and redevelopment act shall have the meanings given them in that act.

History: 1975 c 13 s 23; 1986 c 460 s 26

473.195 POWERS.

Subdivision 1. In addition to, and not in limitation of, all other powers invested in it by law, the council, and the members thereof, shall have, throughout the metropolitan area, the same functions, rights, powers, duties, privileges, immunities and limitations as are provided for housing and redevelopment authorities created for municipalities, and for the commissioners of such authorities. The provisions of sections 469.001 to 469.047 and of all other laws relating to housing and redevelopment authorities shall be applicable to the council when functioning as an authority, except as herein provided or as clearly indicated otherwise from the context of such laws. Section 469.003 shall have no application to the council nor to any municipality or county within which the council undertakes a project. Any municipality or county, and the governing bodies of any municipality or county, within and for which the council undertakes a project shall have all the powers, authority and obligations granted to municipalities and counties by the provisions of sections 469.001 to 469.047 and all other laws relating to housing and redevelopment authorities. The council may plan and propose projects within the boundaries of any municipality, and may otherwise exercise the powers of

an authority at any time; provided, however, that the council shall not implement any housing project, housing development project, redevelopment project or urban renewal project within the boundaries of any municipality or county without the prior approval of the governing body of the municipality or county in which any such project is to be located; and provided further that the council shall not propose any project to the governing body of a municipality or county having an active authority created pursuant to section 469.003, or pursuant to special legislation, without first submitting the proposed project to the municipal or county authority for its review and recommendations; and provided further that as to any project proposed by the council and approved by the municipality or county, the council shall not undertake the project if within 60 days after it has been proposed, the municipality or county agrees to undertake the project. All plans and projects of the council shall be consistent with the comprehensive development guide.

Subd. 2. The council may provide technical assistance to existing municipal or county housing and redevelopment authorities at the request of such authorities.

Subd. 3. The council may cooperate with or act as agent for the federal government, the state government, or any agencies or instrumentalities thereof, in carrying out the provisions of any federal or state legislation relating to the general purposes of the municipal housing and redevelopment act.

Subd. 4. The council shall, as part of any project proposal to a municipality, propose a means for citizens substantially affected by the proposed project to participate in the formulation and carrying out of projects undertaken by the council pursuant to the terms of sections 473.194 to 473.201.

History: 1975 c 13 s 24; 1982 c 424 s 109; 1986 c 460 s 27; 1987 c 291 s 227

473.199 EFFECT UPON MUNICIPAL AND COUNTY HOUSING AND REDEVELOPMENT AUTHORITIES.

Nothing in sections 473.194 to 473.201 shall be construed to impair the powers and obligations of municipal, county or multicounty housing and redevelopment authorities within the metropolitan area.

History: 1975 c 13 s 25; 1986 c 460 s 28

473.201 FINANCES.

Subdivision 1. The council shall allocate the net unreimbursed costs of any project which it undertakes to the municipality or group of municipalities or county for which the project is undertaken. The governing body of each such municipality or county shall impose taxes or other revenue measures to provide funds necessary to pay the allocated costs, and the governing body of each such municipality or county shall have all the powers, authority and obligation granted to authorities by section 469.033 and all other provisions of law regarding the financing of such projects, provided that the council shall have the powers of an authority for purposes of applying for and receiving federal grants in connection with all projects which it undertakes.

Subd. 2. The council may expend for the purposes of sections 473.194 to 473.201 any revenues derived pursuant to section 473.249.

History: 1975 c 13 s 26; 1986 c 460 s 29; 1987 c 291 s 228

473.203 [Repealed, 1986 c 460 s 59]

473.204 STANDARDS AND CRITERIA.

Subdivision 1. Before January 1, 1976, the metropolitan council shall, after public hearings, promulgate standards and criteria and suggested model ordinances for the regulation of the use and development of the land and water within the metropolitan area which will provide for:

(a) the protection and preservation of those wetlands and lowlands permanently or intermittently covered with waters, such as marshes, swamps, bogs, meadows,

potholes and sloughs which are essential to hydrological or ecological systems or for flood control;

(b) the protection of groundwater recharge areas which contribute significantly to the recharge of groundwater aquifers;

(c) the minimum erosion of those slopes which are subject to severe or moderate erosion because of their degree of slope and soil type;

(d) the maximum retention of existing forests and woodlands, the minimum removal of trees for development, and the encouragement of replanting where removal is unavoidable;

(e) the determination of the suitability of soils or bedrock for development, design and construction measures for development which would compensate for existing soil or bedrock problems, and the prevention of the type of development for which such soils or bedrock are unsuitable;

(f) the protection and preservation of the natural watercourses, intermittent or permanent, and minimizing the discharge of pollutants into water bodies and watercourses by storm runoff and otherwise;

(g) the protection and preservation of areas containing unique or endangered species of plants and animals;

(h) the prevention of premature development for nonagricultural use of prime agricultural lands where such land is essential for agricultural purposes;

(i) the regulation of the extraction of minerals, including sand and gravel, to minimize undesirable environmental effects and provide for future utilization of the lands involved;

(j) the preservation of natural resource areas of particular historical significance.

Subd. 2. In preparation of these standards, criteria and model ordinances, described in subdivision 1, clauses (a), (b), (d), (f), (g) and (i) and in order to assure consistency with rules, standards, criteria and model ordinances promulgated by other state agencies, the metropolitan council shall seek the assistance and approval of the department of natural resources; in preparation of these standards, criteria and model ordinances, described in subdivision 1, clauses (c) and (e), the metropolitan council shall seek the assistance and approval of the board of water and soil resources; in preparation of these standards, criteria and model ordinances, described in subdivision 1, clause (h), the metropolitan council shall seek the assistance and approval of the department of agriculture. In addition, the metropolitan council shall, where appropriate, seek the assistance of the commissioner of trade and economic development, the Minnesota pollution control agency, soil and water conservation districts, the University of Minnesota, the department of agriculture, and other appropriate agencies.

History: 1975 c 13 s 28; 1975 c 271 s 6; 1976 c 149 s 59; 1976 c 239 s 116; 1981 c 356 s 239; 1983 c 289 s 115 subd 1; 1985 c 248 s 70; 1987 c 312 art 1 s 26 subd 2; 1987 c 358 s 34; 1987 c 384 art 3 s 42

473.206 LOCAL ORDINANCES.

Each county, city or town in the metropolitan area shall be provided with standards, criteria and suggested model ordinances and may, after review and comment by the metropolitan council, adopt ordinances which provide for the protection of the resources described in section 473.204.

History: 1975 c 13 s 29

473.208 COOPERATION.

In adopting and enforcing the ordinances for which standards and criteria are provided by sections 473.204 to 473.208, counties, cities and towns shall consult and cooperate with affected soil and water conservation districts, watershed districts, and lake conservation districts on matters of common concern.

History: 1975 c 13 s 30; 1987 c 384 art 2 s 1

- 473.215 [Repealed, 1986 c 460 s 59]
 473.216 [Repealed, 1986 c 460 s 59]
 473.217 [Repealed, 1986 c 460 s 59]
 473.218 [Repealed, 1986 c 460 s 59]
 473.219 [Repealed, 1986 c 460 s 59]

473.223 FEDERAL AID.

For the purposes of this section the term "governmental subdivision" includes municipalities, counties and other political subdivisions generally. If federal aid for transportation programs and projects is otherwise unavailable to an existing agency or governmental subdivision, the metropolitan council may cooperate with the government of the United States and any agency or department thereof and the affected agency or other governmental subdivision in establishing metropolitan area eligibility to receive federal aid, and may comply with the provisions of the laws of the United States and any rules and regulations made thereunder for the expenditure of federal moneys upon such projects as are proposed for federal assistance. If necessary to meet federal requirements, the council, the regional transit board, and the metropolitan transit commission may be considered a single eligible unit to carry out their respective responsibilities. The metropolitan council may accept federal aid and other aid, either public or private, for and in behalf of the metropolitan area or any governmental subdivision of the state, for transportation programs and projects within the metropolitan area upon such terms and conditions as are or may be prescribed by the laws of the United States and any rules or regulations made thereunder, and is authorized to act as agent of any governmental subdivision of the state with jurisdiction in the metropolitan area upon request of such subdivision in accepting the aid in its behalf for such programs or projects financed either in whole or in part by federal aid. The governing body of any such subdivision is authorized to designate the metropolitan council as its agent for such purposes and to enter into an agreement with the council prescribing the terms and conditions of the agency relationship in accordance with state and federal laws, rules and regulations. The metropolitan council is authorized to designate an appropriate state agency as its agent for such purposes and to enter into an agreement with such agency prescribing the terms and conditions of the agency relationship in accordance with state and federal laws, rules and regulations.

Nothing contained herein shall limit any separate authority of agencies or governmental subdivisions of the state to contract for and receive federal aid.

History: 1975 c 13 s 36; 1980 c 509 s 172; 1984 c 654 art 3 s 114

473.241 DATA COLLECTION.

The metropolitan council in cooperation with other departments and agencies of the state and the regents of the University of Minnesota may develop a center for data collection and storage to be used by it and other governmental users and may accept gifts as otherwise authorized in this section for the purposes of furnishing information on such subjects as population, land use, governmental finances, and the like.

History: 1975 c 13 s 37

473.242 URBAN RESEARCH.

Where studies have not been otherwise authorized by law the metropolitan council may study the feasibility of programs relating but not limited to water supply, refuse disposal, surface water drainage, communication, transportation, and other subjects of concern to the peoples of the metropolitan area, may institute demonstration projects in connection therewith, and may accept gifts for such purposes as otherwise authorized in this section.

History: 1975 c 13 s 38

473.243 EMERGENCY SERVICES.

The metropolitan council may coordinate emergency services, community shelter planning within the metropolitan area, accept gifts for such purposes as otherwise authorized in section 473.129 and contract with local governmental agencies and consultants in connection therewith.

History: 1975 c 13 s 39

473.244 SPECIAL STUDIES AND REPORTS.

Subdivision 1. The metropolitan council shall engage in a continuous program of research and study concerning the matters enumerated in this section.

Subd. 2. The control and prevention of air pollution.

Subd. 3. The acquisition and financing of suitable major parks and open spaces within and adjacent to the metropolitan area.

Subd. 4. The control and prevention of water pollution in the metropolitan area in conformity with applicable federal and state laws.

Subd. 5. The development of long-range planning in the metropolitan area but not for the metropolitan area.

Subd. 6. The acquisition of necessary facilities for the disposal of solid waste material for the metropolitan area and the means of financing such facilities.

Subd. 7. The examination of the tax structure in the metropolitan area and consideration of ways to equalize the tax resources therein.

Subd. 8. Assessment practices in the metropolitan area.

Subd. 9. The acquisition of necessary storm water drainage facilities for the metropolitan area and the means of financing such facilities.

Subd. 10. The necessity for the consolidation of common services of local governmental units and the kind of consolidation most suitable in the public interest.

Subd. 11. Advance land acquisition for development purposes in the metropolitan area and the role of the public in connection therewith.

Subd. 12. All studies shall include recommendations as to the governmental organization, governmental subdivision, or governmental district best suited to discharge the powers recommended.

History: 1975 c 13 s 40

473.245 REPORTS.

On or before January 15, of each year the metropolitan council shall report to the legislature. The report shall include:

(1) A statement of the metropolitan council's receipts and expenditures by category since the preceding report;

(2) A detailed budget for the year in which the report is filed and the following year including an outline of its program for such period;

(3) An explanation of any policy plan and other comprehensive plan adopted in whole or in part for the metropolitan area and the review comments of the affected metropolitan agency;

(4) Summaries of any studies and the recommendations resulting therefrom made by the metropolitan council, and a listing of all applications for federal money made by governmental units within the metropolitan area submitted to the metropolitan council;

(5) A listing of plans of local governmental units and proposed matters of metropolitan significance submitted to the metropolitan council;

(6) A detailed report on the progress of any project undertaken by the council pursuant to sections 473.194 to 473.201; and

(7) Recommendations of the metropolitan council for metropolitan area legisla-

tion, including the organization and functions of the metropolitan council and the metropolitan agencies.

History: 1975 c 13 s 41; 1986 c 460 s 30; 1987 c 384 art 2 s 1

473.247 METROPOLITAN AGENCIES; PUBLIC INFORMATION.

The council shall publish a consolidated metropolitan bulletin or register containing official notices, meeting and hearing schedules, notices of adopted ordinances, rules, policies, and similar matters for the council and all metropolitan agencies. Metropolitan agencies shall cooperate with the council in providing timely information for publication.

History: 1987 c 278 s 9

473.249 TAX LEVY.

Subdivision 1. The metropolitan council may levy a tax on all taxable property in the metropolitan area defined in section 473.121 to provide funds for the purposes of sections 473.121 to 473.249 and for the purpose of carrying out other responsibilities of the council as provided by law. This tax for general purposes shall be levied and collected in the manner provided by section 473.13.

The property tax levied by the metropolitan council for general purposes shall not exceed the following amount for the years specified:

(a) for taxes payable in 1988, the product of 8/30 of one mill multiplied by the total assessed valuation of all taxable property located within the metropolitan area as adjusted by the provisions of Minnesota Statutes 1986, sections 272.64; 273.13, subdivision 7a; and 275.49;

(b) for taxes payable in 1989, the product of (1) the metropolitan council's property tax levy limitation for general purposes for the taxes payable year 1988 determined under clause (a) multiplied by (2) an index for market valuation changes equal to the assessment year 1988 total market valuation of all taxable property located within the metropolitan area divided by the assessment year 1987 total market valuation of all taxable property located within the metropolitan area; and

(c) for taxes payable in 1990 and subsequent years, the product of (1) the metropolitan council's property tax levy limitation for general purposes for the previous year determined under this subdivision multiplied by (2) an index for market valuation changes equal to the total market valuation of all taxable property located within the metropolitan area for the current assessment year divided by the total market valuation of all taxable property located within the metropolitan area for the previous assessment year.

For the purpose of determining the metropolitan council's property tax levy limitation for general purposes for the taxes payable year 1988 and subsequent years under this subdivision, "total market valuation" means the total market valuation of all taxable property within the metropolitan area without valuation adjustments for fiscal disparities (chapter 473F), tax increment financing (sections 469.174 to 469.179), and high voltage transmission lines (section 273.425).

Subd. 2. The commissioner of revenue shall annually determine whether the ad valorem property tax certified by the metropolitan council for levy following the adoption of its budget is within the levy limitation imposed by this section. To the extent practicable, the determination shall be completed prior to December 1 of each year. If current information regarding gross tax capacity in any county is not transmitted to the commissioner in a timely manner, the commissioner may estimate the current gross tax capacity within that county for purposes of making the calculation.

Subd. 3. **Levy limit.** Notwithstanding any other provision of this section, effective for property taxes payable in 1989 and subsequent years, the total amount of dollars levied by the council for general purposes under this section in any year may not increase over the amount levied in the preceding year by a percentage greater than the percentage increase, during the 12-month period ending with the most recent month

for which data is available, in the implicit price deflator for state and local government purchases of goods and services.

History: 1975 c 13 s 42; 1976 c 179 s 19; 1978 c 543 s 4; 1978 c 766 s 17,18; 1986 c 460 s 31; 1988 c 675 s 12,13; 1988 c 719 art 5 s 84

METROPOLITAN PARKS AND OPEN SPACE COMMISSION

473.301 DEFINITIONS.

Subdivision 1. As used in sections 473.302 to 473.341, the terms defined in this section have the meanings given them.

Subd. 2. "Policy plan" means a plan adopted by the council pursuant to section 473.147, generally describing the extent, type and location of regional recreation open space needed for the metropolitan area and the timing of its acquisition and development.

Subd. 3. "Master plan" means a plan describing the boundaries of specific parks or other regional recreation open space and the nature of their development and use.

Subd. 4. "Commission" means the metropolitan parks and open space commission created by section 473.303.

Subd. 5. "Municipality" means any city or town exercising municipal powers located in the metropolitan area, except where there exists in a city of the first class an elected park and recreation board having control of parks, parkways, playgrounds, and trees, for purposes of sections 473.302 to 473.341, that board shall be considered a municipality.

History: 1975 c 13 s 43

473.302 REGIONAL RECREATION OPEN SPACE SYSTEM; PURPOSE.

The legislature finds that the pressure of urbanization and development threatens valuable recreational open space areas in the metropolitan area at the same time as the need for such areas is increased. Immediate action is therefore necessary to provide funds to acquire, preserve, protect and develop regional recreational open space for public use.

History: 1975 c 13 s 44; 1977 c 421 s 7

473.303 METROPOLITAN PARKS AND OPEN SPACE COMMISSION.

Subdivision 1. **General.** A metropolitan parks and open space commission is established as an agency of the council and shall be organized and structured as provided in this section.

Subd. 2. **Membership.** The commission shall consist of eight members, plus a chair appointed as provided in subdivision 3. The metropolitan council shall appoint the eight members in accordance with the provisions of section 473.141.

Subd. 3. **Chair.** The chair of the commission shall be appointed by the council and shall be the ninth member of the commission and shall meet all qualifications established for members, except the chair need only reside within the metropolitan area. The chair shall preside at all meetings of the commission, if present, and shall perform all other duties and functions assigned by the commission or by law. The commission may appoint from among its members a vice-chair to act for the chair during temporary absence or disability.

Subd. 3a. **Members; duties.** Members have the duties imposed by section 473.141, subdivision 3a.

Subd. 4. **Qualifications.** Each member shall be a resident of the commission district for which appointed and shall not during terms of office as a commission member hold the office of metropolitan council member, or be a member of the

metropolitan transit commission, metropolitan waste control commission, or metropolitan airports commission; or any other metropolitan agency, board, or commission hereafter established by the legislature or hold any judicial office.

Subd. 4a. Terms. Following each apportionment of metropolitan council districts, as provided under section 473.123, subdivision 3a, the metropolitan council appointed as provided in section 473.123, subdivision 3a, shall appoint a chair and eight commission members from newly drawn districts. The terms of members and chairs are as follows: members representing commission districts A, B, C, and D, and the chair of the commission, for terms ending the first Monday in January of the year ending in the numeral "7"; members representing commission districts E, F, G, and H, for terms ending the first Monday in January of the year ending in the numeral "5." Thereafter the term of each member and the chair is four years, with terms ending the first Monday in January, except that all terms expire on the effective date of the next apportionment. The chair shall continue to serve until a successor is appointed and qualified. A member shall continue to serve the commission district until a successor is appointed and qualified; except that, following each apportionment, the member shall continue to serve at large until the metropolitan council appointed pursuant to section 473.123, subdivision 3a appoints eight commission members as provided under subdivision 2, to serve terms as provided under this subdivision. The appointments to the commission must be made by the first Monday in May of the year in which the term ends.

Subd. 5. Vacancies; removal. If the office of any commission member or the chair becomes vacant, the vacancy shall be filled by appointment in the same manner the original appointment was made. Members, other than the chair, may be removed by the council only for cause in the manner specified in chapter 351. The chair may be removed at the pleasure of the council.

Subd. 6. Compensation. Members and the chair shall be compensated as provided in section 473.141, subdivision 7.

History: 1975 c 13 s 45; 1977 c 421 s 8; 1983 c 16 s 9-13; 1986 c 444; 1986 c 460 s 32-34; 1987 c 278 s 10

473.313 MASTER PLANS.

Subdivision 1. Adoption. Each park district located wholly or partially within the metropolitan area, and each county in the metropolitan area not wholly within a park district, shall prepare, after consultation with all affected municipalities, and submit to the metropolitan council, and from time to time revise and resubmit to the council, a master plan and annual budget for the acquisition and development of regional recreation open space located within the district or county, consistent with the council's policy plan.

Subd. 2. Council review. The metropolitan council shall review with the advice of the commission, each master plan to determine whether it is consistent with the council's policy plan. If it is not consistent, the council shall return the plan with its comments to the municipalities, park district or county for revision and resubmittal.

History: 1975 c 13 s 46

473.315 GRANTS.

Subdivision 1. The metropolitan council with the advice of the commission may make grants, from any funds available to it for recreation open space purposes, to any municipality, park district or county located wholly or partially within the metropolitan area to cover the cost, or any portion of the cost, of acquiring or developing regional recreation open space in accordance with the policy plan; and all such agencies may enter into contracts for this purpose or rights or interests therein. The cost of acquisition shall include any payments required for relocation pursuant to sections 117.50 to 117.56.

Subd. 2. In order to avoid further delays in acquisition and development of

regional recreational open spaces heretofore identified by the council and within existing metropolitan development guidelines, the metropolitan council is authorized to immediately make grants to acquire or develop such areas. The existing development guide sections on regional recreation open space shall continue in force and effect and shall constitute the policy plan until the adoption of revisions or modifications pursuant to section 473.147.

History: 1975 c 13 s 47; 1977 c 421 s 9

473.325 SALES OF BONDS.

Subdivision 1. The metropolitan council may by resolution authorize the issuance of general obligation bonds of the council such that the amount outstanding and undischarged at any time shall not exceed \$40,000,000, for which its full faith and credit and taxing powers shall be pledged, for the acquisition and betterment of regional recreation open space in accordance with sections 473.301 to 473.341. The metropolitan council may also issue general obligation bonds for the purpose of refunding outstanding obligations issued hereunder. 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 shall such refunding bonds be included in computing the amount of bonds that may be issued within such dollar limitation.

Subd. 2. The metropolitan council shall sell and issue such 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 therein shall not apply. The terms of each series of such bonds shall be fixed so that the amount of principal and interest on all outstanding and undischarged bonds, together with the bonds proposed to be issued, due in any year shall not exceed .5 mills times the gross tax capacity of all taxable property in the metropolitan area as last finally equalized prior to a proposed issue. 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, shall be spread against all taxable property in the metropolitan area and shall not be subject to limitation as to rate or amount. Any taxes certified by the council to the county auditors for collection shall be reduced by the amount received by the council from the commissioner of finance or the federal government for the purpose of paying the principal and interest on bonds to which the levy relates. The council shall certify the fact and amount of all money so received to the county auditors, and the auditors shall reduce the levies theretofore made for such bonds in the manner and to the extent provided in section 475.61, subdivision 3.

Subd. 3. The metropolitan council shall have the power, after the authorization of bonds pursuant to this section, to provide funds immediately required for the purposes of sections 473.301 to 473.341, by effecting temporary loans upon such terms as it shall by resolution determine, evidenced by notes due in not exceeding 24 months from the date thereof, payable to the order of the lender or to the bearer, to be repaid with interest from the proceeds of such bonds when issued and delivered to the purchaser thereof. Such temporary loans may be made without public advertisement.

Subd. 4. In the event that the full faith and credit pledge of the metropolitan council for the payment of principal and interest on the bonds issued under this section is superseded and replaced by the full faith and credit pledge of the state of Minnesota, by binding and irrevocable legislation, such action shall extinguish the full faith and credit pledge theretofore made for all bonds and the interest thereon issued pursuant to this section.

Subd. 5. From the funds appropriated by Laws 1973, Chapter 720, Section 43, Subdivision 2, Paragraph h, which could be used for grants in aid for recreational and natural areas located within the jurisdiction of the council, not committed for such purposes on April 1, 1974, the amount needed but not to exceed \$2,000,000 is hereby reappropriated to the council for the fiscal year commencing July 1, 1974, to pay

principal and interest coming due in such fiscal year on bonds issued pursuant to this section.

History: 1975 c 13 s 48; 1988 c 719 art 5 s 84

473.326 COMO PARK ZOO; BONDS.

Subdivision 1. Subject to the provisions of subdivision 2, the metropolitan council shall by resolution authorize the issuance of general obligation bonds of the council in an aggregate principal amount not exceeding \$2,300,000, in addition to the amount authorized under the provisions of section 473.325. The proceeds shall be used by the council for grants to the city of St. Paul for the repair, construction, reconstruction, improvement, and rehabilitation of the Como Park zoo owned and operated by the city. The bonds shall be sold, issued, and secured as provided in section 473.325, and the terms of each series thereof shall be fixed so that the annual principal and interest payments thereon, together with those on all outstanding and undischarged bonds issued pursuant to section 473.325, will not exceed the limit provided in that section.

Subd. 2. The city council shall cause to be prepared, approve, and submit to the metropolitan council plans for any work for which a grant is requested. The metropolitan council shall determine whether the plans are consistent with Ramsey county's master plan and the metropolitan council's policy plan for regional recreation open space. If not, or if the determination cannot be made on the basis of the plans as submitted, they shall be returned with comments to the city council for revision and resubmission. No bonds shall be issued under this section until the plans for the work to be financed thereby are approved by the metropolitan council.

Subd. 3. Of any state funds reappropriated to the metropolitan council for use for the acquisition and betterment of regional recreation open space, at least \$1,400,000 shall be used by the council for grants to the city of St. Paul for the repair, construction, reconstruction, improvement, and rehabilitation of the Como Park zoo.

Subd. 4. No grant made under this section shall affect the city's ownership of or power to manage and operate the zoo, in a manner consistent with the master plan and policy plan.

History: 1977 c 436 s 1

473.331 LOCAL ACQUISITION.

Any park district or municipality wholly or partially within the metropolitan area, and any county in the metropolitan area not wholly within a park district, may acquire, develop and manage any land or water area, or any interests, easements or other rights therein, comprising regional recreation open space in the same manner as it is authorized to do for other park and recreation purposes, and such area or other rights shall constitute a part of the park and recreation system of the acquiring agency.

History: 1975 c 13 s 49

473.333 COUNCIL ACQUISITION.

The metropolitan council shall have the same powers as a county under section 398.32, subdivision 1, to acquire any land or water area, or any interests, easements or other rights therein, which are included in the policy plan whenever such areas have not been acquired for recreation open space purposes within the period of time hereinafter specified; provided that the council shall not have the power of eminent domain. Before proceeding with the acquisition of any such area or other rights, the council shall by resolution offer a grant covering the full cost of acquisition to the municipality, park district or county in which the area or other rights are situated. If the acquisition process has not been initiated within 60 days or if the area or other rights have not been acquired within 12 months after the adoption of the resolution, the council may by resolution offer such a grant to another park district or county or to a municipality in the metropolitan area. If the acquisition process has not been initiated within 60 days or if the area or other rights have not been acquired within six

months after the adoption of the resolution, the council may direct the commission to proceed with acquisition. The council may, in its discretion, direct the commission to contract with a municipality, park district or county for such services as may be needed to complete such acquisition. The council shall direct the commission to manage such areas so as to preserve them for future recreation open space purposes and may contract with a municipality, park district or county for such management. The council shall convey such areas to a municipality, park district or county for development and operation consistent with an approved recreation open space master plan.

History: 1975 c 13 s 50

473.341 TAX EQUIVALENTS.

In each of the four years after the metropolitan council or park district, county or municipality acquires fee simple title to any real property included in the regional recreation open space system, the metropolitan council shall pay to the municipality or township in which the property is situated an amount equal to the total amount of the taxes levied thereon for municipal or township purposes for collection in the year in which title passed, diminished by 20 percent for each subsequent year to and including the year of payment; provided that for any year in which taxes on the property, or on the privilege of using or possessing it, are paid this tax equivalent shall not be paid. All amounts paid pursuant to this section are costs of acquisition of the property with respect to which they are paid.

History: 1975 c 13 s 51

473.351 METROPOLITAN AREA REGIONAL PARKS FUNDING.

Subdivision 1. Definitions. The definitions in this subdivision apply to this section.

(a) "Implementing agency" means the counties of Anoka, Washington, Ramsey, Scott, Carver, Dakota, the city of St. Paul, the city of Bloomington, the Minneapolis park and recreation board, and the Hennepin county park reserve district.

(b) "Operation and maintenance expenditures" means the cost of providing for the operation and maintenance of waters, lands, and facilities that are a part of the metropolitan area regional park and open space system, including but not limited to, the provision of fire, police, maintenance, forestry, rehabilitation expenses pertaining to routine care, and the allocation of the administrative overhead costs of the regional park and open space systems.

(c) "Operation and maintenance money" means money appropriated by the legislature to the commissioner of trade and economic development for distribution by the metropolitan council.

(d) "Regional recreation open space systems" means those parks that have been designated by the metropolitan council under section 473.145.

Subd. 2. Metropolitan council obligation. Annually before August 1 the metropolitan council shall distribute grant money received from the commissioner of trade and economic development to fund the operation and maintenance expenditures of the implementing agencies for the operation and maintenance of regional park and open space systems. The metropolitan council shall annually report to the legislature the amount distributed to each implementing agency and its estimate of the percentage of operation and maintenance expenditures paid for with operation and maintenance money.

Subd. 3. Allocation formula. By July 1 of every year each implementing agency must submit to the metropolitan parks and open space commission a statement of the next annual anticipated operation and maintenance expenditures of the regional recreation open space parks systems within their respective jurisdictions and the previous year's actual expenditures. After reviewing the actual expenditures submitted and by July 15 of each year, the parks and open space commission shall forward to the metropolitan council the funding requests from the implementing agencies based on

the actual expenditures made. The metropolitan council shall distribute the operation and maintenance money as follows:

(1) 40 percent based on the use that each implementing agency's regional recreation open space system has in proportion to the total use of the metropolitan regional recreation open space system;

(2) 40 percent based on the operation and maintenance expenditures made in the previous year by each implementing agency in proportion to the total operation and maintenance expenditures of all of the implementing agencies; and

(3) 20 percent based on the acreage that each implementing agency's regional recreation open space system has in proportion to the total acreage of the metropolitan regional recreation open space system. The 80 percent natural resource management land acreage of the park reserves must be divided by four in calculating the distribution under this clause.

Each implementing agency must receive no less than 40 percent of its actual operation and maintenance expenses to be incurred in the current calendar year budget as submitted to the parks and open space commission. If the available operation and maintenance money is less than the total amount determined by the formula including the preceding, the implementing agencies will share the available money in proportion to the amounts they would otherwise be entitled to under the formula.

Subd. 4. Implementing agency control. This section does not affect, change, alter, transfer, or modify the governance, administration, jurisdiction, or control of the implementing agencies over the parks, water, lands, and facilities they presently or in the future may administer, govern, or control, nor the employment relationship between the implementing agencies and their present and future employees.

Subd. 5. [Repealed, 1987 c 404 s 191]

Subd. 6. Restriction. A metropolitan area regional park receiving grant money for maintenance and operation costs must agree:

(1) to sell or promote licenses, passes, or registrations required to engage in recreational activities appropriate to the park or the site of the park when a building on the park site is staffed and open to the public; and

(2) to provide drinking water supplies adequate for the recreational uses of the park. Each implementing agency must consult with groups representing users of its parks to determine the adequacy of drinking water supplies.

History: *1Sp1985 c 13 s 355; 1987 c 312 art 1 s 26 subd 2; 1987 c 404 s 177*

TRANSIT

473.371 POLICY; GOALS.

Subdivision 1. Policy. The legislature finds that, for the provision of essential mobility and transportation options in the metropolitan area, for the encouragement of alternatives to the single-occupant vehicle and for the development of transportation service designed to meet public needs efficiently and effectively, there is a need for the creation of regional transit programs and agencies with the powers and duties prescribed by law.

Subd. 2. Goals. The goals of sections 473.371 to 473.449 are as follows:

(a) to provide, to the greatest feasible extent, a basic level of mobility for all people in the metropolitan area;

(b) to arrange to the greatest feasible extent for the provision of a comprehensive set of transit and paratransit services to meet the needs of all people in the metropolitan area;

(c) to cooperate with private and public transit providers to assure the most efficient and coordinated use of existing and planned transit resources; and

(d) to maintain public mobility in the event of emergencies or energy shortages.

History: *1984 c 654 art 3 s 115*

473.373 REGIONAL TRANSIT BOARD.

Subdivision 1. Establishment. To carry out the policy and achieve the goals of section 473.371 there is established a regional transit board as a public corporation and a political subdivision of the state. Except as provided in this section, the board is organized, structured, and administered as provided in section 473.141.

Subd. 1a. Purpose. (a) The purposes of the board are:

(1) to foster effective delivery of existing transit services and encourage innovation in transit service;

(2) to prepare implementation and financial plans for the metropolitan transit system;

(3) to set policies and standards for implementing the transit policies and programs of the state and the transit policies of the metropolitan council in the metropolitan area;

(4) to conduct transit research and evaluation; and

(5) to administer state and metropolitan transit subsidies.

(b) The board shall arrange with others for the delivery and provision of transit services and facilities. The board shall avoid, to the greatest extent possible, direct operational planning, administration, and management of specific transit services and facilities.

Subd. 2. [Repealed, 1Sp1985 c 10 s 123 subd 4]

Subd. 3. [Repealed, 1986 c 460 s 59]

Subd. 4. Terms. The initial terms of members and the chair appointed under Laws 1984, chapter 654, article 3, section 116, commence on the first day after July 1, 1984, that the chair and at least seven other members have been appointed and qualified and expire on the first day that the chair and eight members appointed under section 473.141 and this section are appointed and qualified. By August 1, 1985, the appointing authorities shall appoint a chair and eight members from the districts defined in section 473.141. The initial terms of members and the chair appointed in 1985 are as follows: members representing commission districts A, B, C, and D and the chair of the board, for terms ending the first Monday in January of the year ending in the numeral "7"; members representing commission districts E, F, G, and H for terms ending the first Monday in January of the year ending in the numeral "9." At least one of the members appointed by the council must be 65 years of age or older at the time of the appointment. Thereafter the term of each member and the chair is four years, subject to the provisions on apportionment, successor qualification, removal, and vacancy of section 473.141, subdivisions 4a, 5, and 6.

Subd. 5. Chair. The duties of the chair are:

(a) to preside over all board meetings attended;

(b) to serve as the principal transit spokesperson within the metropolitan area before the legislature, other state and regional agencies, local units of government, and the general public;

(c) to present to the governor and the legislature, after approval by the council, the board's financial plan for public transit in the metropolitan area;

(d) to convene and preside at an annual regional transit conference of transit providers, operators, and users; and

(e) to perform other duties assigned by law or by the board.

Subd. 6. Executive director. The chief administering officer of the board shall hold the position of executive director. The executive director shall be appointed as provided in section 473.141 and have the duties and authority prescribed for a chief administrator in section 473.141.

Subd. 7. [Repealed, 1Sp1985 c 10 s 123 subd 1]

Subd. 8. Pension rights. A person who is an employee of the metropolitan transit commission on the effective date of this section and who subsequently becomes an

employee of the transit board has the option of continued coverage under Minnesota Statutes, chapter 353.

History: 1984 c 654 art 3 s 116; 1Sp1985 c 10 s 94,95; 1986 c 444; 1986 c 460 s 35,36; 1987 c 278 s 11

473.375 POWERS OF BOARD.

Subdivision 1. General. The transit board has the power and duties imposed by law. The exercise of any powers by the board must be consistent with the exercise by the metropolitan council of any of its powers.

Subd. 2. Actions. The board may sue and be sued.

Subd. 3. Contracts. The board may enter into contracts necessary to carry out its responsibilities.

Subd. 4. Property. The board may acquire by purchase, lease, gift, or grant property and interests in property necessary for the accomplishment of its purposes and may sell or otherwise dispose of property which it no longer requires. The board may not rent or lease any premises from a recipient of financial assistance from the board. Except for the rental or lease of its office space, the board may not acquire or hold any permanent or temporary right, title, or interest in or to real property, including easements or development rights. The board may not acquire or hold any permanent or temporary right, title, or interest in or to transit vehicles.

Subd. 5. Insurance. The board may require any employee to obtain and file with it an individual bond or fidelity insurance policy. It may procure insurance in the amounts it deems necessary 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. 6. Investigations. When necessary and proper to the performance of its duties, the board may enter in a reasonable manner upon any premises for the purpose of making any reasonably necessary or proper investigations and examinations. The entry is not a trespass. The board is liable for any actual and consequential loss, injury, or damage from the entry. When necessary and proper to the performance of its duties, the board or its authorized agents may require the production of accounts, books, records, memoranda, correspondence, and other documents and papers of a person receiving financial assistance from the board, may inspect and copy them, and may have access to and may inspect the lands, buildings, facilities, or equipment of the person.

Subd. 7. Taxes. The board may levy taxes as provided in section 473.446.

Subd. 8. Gifts; grants. The board may apply for, accept and disburse gifts, grants, or loans from the United States, the state, or from any person on behalf of itself or any of its contract recipients, 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 therefrom according to the terms of the gift, grant, or loan. The board may not be a recipient of federal operating or capital assistance distributed by formula or block grant. The board may not be a recipient of federal discretionary capital grants for light rail and other fixed guideway transit systems.

No political subdivision within the metropolitan area may apply for federal transit assistance unless its application has been submitted to and approved by the board.

Subd. 9. Advisory committees. The board may establish one or more advisory committees composed of and representing transit providers, transit users, and local units of government to advise it in carrying out its purposes. The members of advisory committees serve without compensation.

Subd. 10. Research. The board may conduct research studies and programs or may contract with other persons for research studies and programs. It may advise and assist the metropolitan council and other government units on transportation issues within its jurisdiction.

Subd. 11. Ridesharing. Upon certification by the board, after June 30, 1985, that it has adopted an approved interim implementation plan and is ready to assume responsibilities for the program, the board shall assume the responsibilities identified by the board that are imposed on the commissioner of transportation, the metropolitan council, or the transit commission pursuant to section 174.257 and other applicable provisions of law for the establishment and implementation of a ridesharing program in the metropolitan area, except for the statewide vanpool leasing program conducted by the commissioner. The commissioner, the council, and the commission shall cooperate with the board in the transfer of these duties and in the conduct of ridesharing activities in areas where the commissioner's programs and the board's program overlap. The board shall establish a rideshare advisory committee to advise it in carrying out the program. The board may contract for services in operating the program.

Subd. 12. Assistance. The board shall offer, use, and apply its services to assist and advise transit providers in the metropolitan transit area in the planning, promotion, development, operation, and evaluation of programs and projects which are undertaken or proposed to be undertaken by contract with the board, and shall seek out and select recipients of this assistance and advice.

Subd. 13. Financial assistance. The board may provide financial assistance to the commission and other providers as provided in sections 473.371 to 473.449 in furtherance of and in conformance with the implementation plan of the board.

Subd. 14. Coordination. The board shall coordinate transit operations within the metropolitan area and shall establish a transit information program to provide transit users with accurate information on transit schedules and service.

Subd. 15. Performance standards. The board may establish performance standards for recipients of financial assistance.

Subd. 16. Report. The board shall annually submit a report to the metropolitan council, the governor, and the legislature detailing its activities and finances for the previous year.

Subd. 17. Audit. 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. If the board chooses the state auditor, the state auditor shall audit, either directly or by subcontract, the board's financial accounts and affairs at least once each year. The information in the audit must be contained in the annual report and distributed in accordance with section 473.445, subdivision 3. The board shall pay the total cost of the audit, including the salaries paid to the examiners while actually engaged in making the examination. The state auditor may bill monthly or at the completion of the audit. All collections received for the state audits must be deposited in the revolving fund of the state auditor.

Subd. 18. Operations. The board may not own or operate transit services.

History: 1984 c 654 art 3 s 117; 1Sp1985 c 10 s 96,97; 1988 c 675 s 14-16

473.377 IMPLEMENTATION PLAN.

Subdivision 1. Requirement. The transit board shall prepare, submit to the council, and adopt an implementation plan as provided in section 473.161. The services and systems management component of the board's plan must include a description of the special transportation service provided under section 473.386. The board shall prepare an implementation plan meeting the requirements of this section and submit the plan to the council by August 1, 1986, and thereafter at a time prescribed by the council.

Subd. 2. [Repealed, 1986 c 460 s 59]

Subd. 3. [Repealed, 1986 c 460 s 59]

Subd. 4. Fare policy. The plan must contain a statement of the policies that will govern the imposition of user charges for various types of transit service and the policies that will govern decisions by the board to change fare policy.

Subd. 5. Local review and comment. At least 30 days before holding the hearing required on the implementation plan or revision, the board shall submit copies of the plan or a summary of the plan to the chief administrative officer of each statutory and home rule charter city, town, and county in the metropolitan area, along with notice of the hearing and an invitation to testify and submit comments.

History: 1984 c 654 art 3 s 118; 1986 c 460 s 37; 1987 c 278 s 12-14

473.38 BUDGET; REGIONAL TRANSIT BOARD.

Subdivision 1. Requirement. The regional transit board shall prepare, submit for review, adopt, and implement budgets and conduct its financial affairs in the same manner, with the same requirements and restrictions, and to the same effect as provided in section 473.163, subdivisions 1 to 4, except as otherwise provided in this section.

Subd. 2. Financial plan; council approval. Along with its annual budget, each even-numbered year the board shall prepare a financial plan for the succeeding three calendar years, in half-year segments. The financial plan must be consistent with the board's implementation plan and must contain the elements specified in section 473.1623, subdivision 3. The financial plan must contain schedules of user charges and any changes in user charges planned or anticipated by the board during the period of the plan. The financial plan must contain a proposed request for state financial assistance for the succeeding biennium. The board shall submit the financial plan to the council for review and approval or disapproval. The council may approve or disapprove in whole or in part. The council may disapprove only for inconsistency with the policy plan of the council.

Subd. 3. Exception. The capital budget and financial plan of the board prepared in 1984 need not be submitted to the council until December 1, 1984, and the council has 30 days for review.

Subd. 4. Program evaluation. The budget procedure of the board must include a substantive assessment and evaluation of the effectiveness of each significant program of 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 legislature annually.

History: 1984 c 654 art 3 s 119; 1Sp1985 c 10 s 98; 1986 c 460 s 38,59; 1Sp1986 c 3 art 2 s 10; 1987 c 278 s 15; 1988 c 675 s 17

473.382 LOCAL PLANNING AND DEVELOPMENT PROGRAM.

In preparing and amending its implementation plan pursuant to section 473.377, the transit board shall establish a program to ensure participation by representatives of local government units and the coordination of the planning and development of transit by local government units. The board shall encourage the establishment of local transit planning and development boards by local governments for the purpose of:

(a) assisting and advising the transit board in preparing the implementation plan, including the identification of service needs and objectives;

(b) preparing, or advising and assisting local units of government in preparing the transit study and service plan required by section 473.384;

(c) preparing or advising the transit board in the review of applications for assistance under section 473.384.

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

History: 1984 c 654 art 3 s 120

473.384 CONTRACTS.

Subdivision 1. Contracts required. The transit board shall make contracts with eligible recipients for financial assistance to transit service within the metropolitan area. The board may not give financial assistance to a transit provider other than the

commission without first having executed a contract. The provisions of this section do not apply to contracts made under sections 473.386 and 473.388.

Subd. 2. Eligibility. To be eligible to receive financial assistance by contract under this section a recipient must be:

(a) a county, statutory or home rule charter city or town or combination thereof, or public authority organized and existing pursuant to chapter 398A, providing financial assistance to or providing or operating public transit; or

(b) a private provider of public transit.

Subd. 3. Applications. The board shall establish procedures and standards for review and approval of applications for financial assistance under this section consistent with its approved implementation plan. An applicant must provide the board with the financial and other information the board requires to carry out its duties. The board may specify procedures, including public hearing requirements, to be followed by applicants that are cities, towns, or counties or combinations thereof in conducting transit studies and formulating service plans under subdivisions 4 and 5.

Subd. 4. Transit study. The board shall require that prior to applying for financial assistance by contract under clause (a) of subdivision 2, the applicant must prepare and submit a transit study which includes the following elements:

(a) a determination of existing and future transit needs within the area to be served, and an assessment of the adequacy of existing service to meet the needs;

(b) an assessment of the level and type of service required to meet unmet needs;

(c) an assessment of existing and future resources available for the financing of transit service; and

(d) the type or types of any new government arrangements or agreements needed to provide adequate service.

The transit study for any applicant may be done by the board.

Subd. 5. Service plan. The board shall, before making a contract with an eligible recipient, require the submission of a service plan which includes the following elements:

(a) a description of the service proposed for financial assistance, including vehicles, routes, and schedules;

(b) an assessment of the extent to which the proposed service meets the needs as determined by the transit study;

(c) a description of the contract administration and review process if the operation of the proposed service is to be done by a private contractor;

(d) a description of the amount required to establish and operate the proposed service and the proposed sources of the required amount including operating revenue, other local sources, and assistance from the board and from federal sources;

(e) the fare structure of the proposed service; and

(f) projections of usage of the system.

The board may specify procedures, including public hearing requirements, to be followed by applicants that are cities, towns, or counties or combinations thereof in conducting transit studies and formulating service plans.

Subd. 6. Financial assistance for certain providers. The board shall provide financial assistance to recipients who were receiving assistance by contract with the commissioner of transportation under Minnesota Statutes 1982, section 174.24, subdivision 3 on July 1, 1984, so that the percentage of total operating cost, as defined by the board, paid by the recipient from all local sources of revenue, including operating revenue, does not exceed the percentage for the recipient's classification as determined by the commissioner of transportation under the commissioner's final contract with the recipient. The board may include funds received under section 473.446, subdivision 1a, as a local source of revenue. The remainder of the total operating cost will be paid by the board less all assistance received by the recipient for that purpose from any federal source.

If a recipient informs the board in writing prior to the distribution of financial assistance for any year that paying its designated percentage of total operating cost from local sources will cause undue hardship, the board may adjust the percentage as it deems equitable. If for any year the funds available to the board are insufficient to allow the board to pay its share of total operating cost for those recipients, the board shall reduce its share in each classification to the extent necessary.

Subd. 7. MTC impact assessment. Prior to entering into a contract for operating assistance with a recipient other than the transit commission the board shall evaluate the effect, if any, of the contract on the ridership, routes, schedules, fares, and staffing levels of the existing and proposed service provided by the commission. A copy of the assessment must be provided to the commission. The board may enter into the contract only if it determines that the service to be assisted under the contract will not impose an undue hardship on the ridership or financial condition of the commission, or cause the dismissal of persons that are employed by the commission.

Subd. 8. Paratransit contracts. In executing and administering contracts for paratransit projects, the board has the powers and duties given to the commissioner of transportation in section 174.255, subdivisions 1 and 2 relating to handicapped accessibility and insurance coverage. The provisions of section 174.255, subdivision 3, apply to paratransit projects which receive assistance by contract with the board.

Subd. 9. Assumption of contracts. The board shall certify to the commissioner of transportation when it has adopted an approved interim implementation plan and is ready to assume responsibility for administering contracts made by the commissioner with recipients in the metropolitan area under section 174.24. On receiving the certification the commissioner shall transfer to the board from funds appropriated to the commissioner an amount sufficient to permit the board to pay all state financial assistance contracted for and shall make no further contracts under section 174.24, subdivision 3, with recipients in the metropolitan area. On receipt of this amount by the board the contracts so assumed become a responsibility of the board.

History: 1984 c 654 art 3 s 121; 1985 c 248 s 60; 1Sp1985 c 10 s 99; 1986 c 444

473.386 SPECIAL TRANSPORTATION SERVICE.

Subdivision 1. Service objectives. The transit board shall implement a special transportation service, as defined in section 174.29, in the metropolitan area. The service has the following objectives:

(a) to provide greater access to transportation for the elderly, handicapped, and others with special transportation needs in the metropolitan area;

(b) to develop an integrated system of special transportation service providing transportation tailored to meet special individual needs in the most cost-efficient manner; and

(c) to use existing public, private, and private nonprofit providers of service wherever possible, to supplement rather than replace existing service, and to increase the productivity of all special transportation vehicles available in the area.

Subd. 2. Service contracts; management; advisory committee. (a) The board shall contract for services necessary for the provision of special transportation. All transportation service must be provided under a contract between the board and the provider which specifies the service to be provided, the standards that must be met, and the rates for operating and providing special transportation services.

(b) The board shall establish management policies for the service but shall contract with a service administrator for day-to-day administration and management of the service. The contract must delegate to the service administrator clear authority to administer and manage the delivery of the service pursuant to board management policies and must establish performance and compliance standards for the service administrator.

(c) The board shall ensure that the service administrator establishes a system for registering and expeditiously responding to complaints by users, informing users of

how to register complaints, and requiring providers to report on incidents that impair the safety and well-being of users or the quality of the service. The board shall annually report to the commissioner of transportation and the legislature on complaints and provider reports, the response of the service administrator, and steps taken by the board and the service administrator to identify causes and provide remedies to recurring problems.

(d) Within 90 days following August 1, 1987, the board shall hold a public hearing on standards for provider eligibility, selection, performance, compliance, and evaluation; the terms of provider contracts and the contract with the service administrator and related contract management policies and procedures of the board; fare policies; service areas, hours, standards, and procedures; and similar matters relating to implementation of the service. Each year before renewing contracts with providers and the service administrator, the board shall provide an opportunity for the advisory committee, users, and other interested persons to testify before the board concerning providers, contract terms, and other matters relating to board policies and procedures for implementing the service.

(e) The board shall establish an advisory committee. The advisory committee must include elderly and handicapped persons, other users of special transportation service, representatives of persons contracting to provide special transportation services, and representatives of appropriate agencies for elderly and handicapped persons to advise the board on management policies for the service. At least half the committee members must be disabled or elderly persons or the representatives of disabled or elderly persons. Two of the appointments to the advisory committee shall be made by the council on disability in consultation with the chair of the regional transit board.

Subd. 3. Duties of board. In implementing the special transportation service, the board shall:

(a) encourage participation in the service by public, private, and private nonprofit providers of special transportation currently receiving capital or operating assistance from a public agency;

(b) contract with public, private, and private nonprofit providers that have demonstrated their ability to effectively provide service at a reasonable cost;

(c) encourage individuals using special transportation to use the type of service most appropriate to their particular needs;

(d) ensure that all persons providing special transportation service receive equitable treatment in the allocation of the ridership;

(e) encourage shared rides to the greatest extent practicable;

(f) encourage public agencies that provide transportation to eligible individuals as a component of human services and educational programs to coordinate with this service and to allow reimbursement for transportation provided through the service at rates that reflect the public cost of providing that transportation;

(g) establish criteria to be used in determining individual eligibility for special transportation services;

(h) consult with the advisory committee in a timely manner before changes are made in the provision of special transportation services, including, but not limited to, changes in policies affecting the matters subject to hearing under subdivision 2;

(i) provide for effective administration and enforcement of board policies and standards; and

(j) annually evaluate providers of special transportation service to ensure compliance with the standards established for the program.

Subd. 4. Coordination required. The board may not grant any financial assistance to any recipient that proposes to use any part of the grant to provide special transportation service in the metropolitan area unless the program is coordinated with the board's special transportation service in the manner determined by the board.

Subd. 5. Equitable allocation and annual reallocation. The board shall distribute

all available funding under this section in a manner designed to achieve an equitable allocation of special transportation services based on the proportion of the number of elderly, handicapped, disabled, or economically disadvantaged individuals with special transportation needs who actually use the special transportation service.

Subd. 6. Operating and service standards. A person operating or assisting the operation of a vehicle may leave the vehicle to enter premises in order to help a passenger who does not require emergency ambulance service. Operators and assistants shall provide the help necessary for door-through-door service, including help in entering and leaving the vehicle and help through the exterior entrance and over any exterior steps at either departure or destination buildings, provided that both the steps and the wheelchair are in good repair. If an operator or assistant refuses help because of the condition of the steps or the wheelchair, the operator of the service shall send letters to the service administrator designated by the board, who shall notify the person denied service describing the corrective measures necessary to qualify for service.

Subd. 7. [Repealed, 1987 c 88 s 13]

History: 1984 c 654 art 3 s 122; 1Sp1985 c 10 s 100; 1986 c 444; 1987 c 88 s 8-12; 1987 c 354 s 8

473.387 SPECIAL TRANSPORTATION MARKETS.

Subdivision 1. Purposes. The legislature finds and declares that the limited public resources available to subsidize transit require increased efforts to concentrate service and funding on special sectors of the marketplace, so as to ensure a basic level of mobility for all persons in the metropolitan area. The purposes of the programs established by this section are to better target transit services and expenditures on transit dependent sectors of the market and to increase the efficiency and effectiveness and control the cost of transit services for persons who lack private means of transportation.

Subd. 2. Administration. The regional transit board shall design and administer the programs under this section. The board may request proposals for projects to demonstrate methods of achieving the purposes of programs administered under this section. The board shall design or ensure the design of programs that will provide better access for the targeted service groups to places of employment and activity throughout the metropolitan area, using regular route transit, paratransit, taxis, car or van pools, or other means of conveyance. The board may organize the services by providing to individuals, directly or indirectly, reduced fares or passes on public transit or vouchers to be used to purchase transportation; by contracting with public and private providers; by arrangements with government agencies, civic and community organizations or nonprofit groups providing assistance to the targeted service groups; by arrangements with prospective employers, with employment, education, retail, medical, or other activity centers, or with local governments; or by any other methods designed to improve service and reduce costs to the targeted service groups.

Subd. 3. Jobseekers. The board shall establish a program and policies to increase the availability and utility of public transit services and reduce transportation costs for persons who are seeking employment and who lack private means of transportation.

Subd. 4. Transit disadvantaged. The board shall establish a program and policies to reduce transportation costs for persons who are, because of limited incomes, age, disability, or other reasons, especially dependent on public transit for common mobility.

History: 1Sp1985 c 10 s 101

473.388 REPLACEMENT SERVICE PROGRAM.

Subdivision 1. Program established. A replacement service program is established to continue the metropolitan transit service demonstration program established in Minnesota Statutes 1982, section 174.265, as provided in this section.

Subd. 2. Replacement service; eligibility. The transit board may provide assist-

ance under the program to a statutory or home rule charter city or town or combination thereof, that:

- (a) is located in the metropolitan transit taxing district;
- (b) is not served by the transit commission or is served only with transit commission bus routes which begin or end within the applying city or town or combination thereof; and
- (c) has fewer than four scheduled runs of metropolitan transit commission bus service during off-peak hours defined in section 473.408, subdivision 1.

Eligible cities or towns or combinations thereof may apply on behalf of a transit operator with whom they propose to contract for service.

The board may not provide assistance under this section to a statutory or home rule charter city or town unless the city or town,

(i) was receiving assistance under Minnesota Statutes 1982, section 174.265 by July 1, 1984,

(ii) had submitted an application for assistance under that section by July 1, 1984, or

(iii) had submitted a letter of intent to apply for assistance under that section by July 1, 1984, and submits an application for assistance under this section by July 1, 1988. A statutory or home rule charter city or town has an additional 12-month extension if it has notified the board before July 1, 1988, that the city or town is in the process of completing a transportation evaluation study that includes an assessment of the local transit needs of the city or town.

Subd. 3. Application for assistance. An application for assistance under this section must:

(a) describe the existing service provided to the applicant by the transit commission, including the estimated number of passengers carried and the routes, schedules, and fares;

(b) describe the transit service proposed for funding under the demonstration program, including the anticipated number of passengers and the routes, schedules, and fares; and

(c) indicate the total amount of available local transit funds, the portion of the available local transit funds proposed to be used to subsidize replacement services, and the amount of assistance requested for the replacement services.

Subd. 4. Financial assistance. The board may grant the requested financial assistance if it determines that the proposed service is consistent with the approved implementation plan and is intended to replace the service to the applying city or town or combination thereof by the transit commission and that the proposed service will meet the needs of the applicant at least as efficiently and effectively as the existing service.

The amount of assistance which the board may provide under this section may not exceed the sum of:

(a) the portion of the available local transit funds which the applicant proposes to use to subsidize the proposed service; and

(b) an amount of financial assistance bearing an identical proportional relationship to the amount under clause (a) as the total amount of financial assistance to the transit commission bears to the total amount of taxes collected by the board under section 473.446. The board shall pay the amount to be provided to the recipient from the assistance the board would otherwise pay to the transit commission.

For purposes of this section "available local transit funds" means 90 percent of the tax revenues which would accrue to the board from the tax it levies under section 473.446 in the applicant city or town or combination thereof.

Subd. 5. Other assistance. A city or town receiving assistance under this section may also receive assistance from the board under section 473.384. In applying for assistance under that section an applicant must describe the portion of the available

local transit funds which are not obligated to subsidize replacement service and which the applicant proposes to use to subsidize additional service. An applicant which has exhausted its available local transit funds may use any other local subsidy funds to complete the required local share.

Subd. 6. Assumption of program. The board shall certify to the commissioner of transportation when it has adopted an approved interim implementation plan and is ready to assume responsibility for the metropolitan transit service demonstration program administered by the commissioner under Minnesota Statutes 1982, section 174.265. On receipt of the certification the commissioner shall make no further contracts under that program and shall assign all contracts then in effect under that program to the board, and the contracts at that time become obligations of the board.

History: 1984 c 654 art 3 s 123; 1986 c 444; 1987 c 278 s 16

473.39 BORROWING MONEY.

Subdivision 1. General authority. The council, if requested by vote of at least two-thirds of all of the members of the transit board, may issue general obligation bonds subject to the volume limitation in subdivision 1a to provide funds to the board for expenditure to implement the board's approved implementation plan and may issue general obligation bonds not subject to the volume limitation set forth in subdivision 1a for the refunding of outstanding bonds or certificates of indebtedness of the council, the board or the commission, and judgments against the board or the commission. The council may not unreasonably withhold the issuance of obligations for an implementation plan that has been approved by the council. The council may not issue obligations pursuant to this subdivision, other than refunding bonds, in excess of the amount specifically authorized by law. Except as otherwise provided in sections 473.371 to 473.449, the council shall provide for the issuance, sale, and security of the bonds in the manner provided in chapter 475, and has the same powers and duties as a municipality issuing bonds under that law, except that no election is required and the net debt limitations in chapter 475 do not apply to the bonds. The obligations are not a debt of the state or any municipality or political subdivision within the meaning of any debt limitation or requirement pertaining to those entities. Neither the state, nor any municipality or political subdivision except the council and board, nor any member or officer or employee of the board or council, is liable on the obligations. The obligations may be secured by taxes 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, clause (c). The council shall certify to the transit board before October 1 of each year the amounts necessary to provide full and timely payment of the obligations. As part of its levy made under section 473.446, subdivision 1, clause (c), the board shall levy the amounts certified by the council and transfer the proceeds to the council for payment of the obligations. The taxes must be levied, certified, and collected in accordance with the terms and conditions of the indebtedness.

Subd. 1a. Obligations. (a) The council may issue certificates of indebtedness, bonds, or other obligations under this section in an amount not exceeding \$17,000,000 for financial assistance to the commission, as prescribed in the implementation plan of the board and the capital program of the commission.

(b) The council may issue certificates of indebtedness, bonds, or other obligations under this section in an amount not exceeding \$1,500,000 for land acquisition and capital improvements for park and ride lots and transit transfer stations planned for the interstate highway described in section 161.123, clause (2), commonly known as I-394. These facilities may be constructed and maintained by the metropolitan transit commission. The board shall require, as a condition of financial assistance to the commission, that the commission make facilities it constructs, acquires, or improves for I-394 with funds provided under this provision available to all transit providers on a nondiscriminatory basis, as the board defines these terms. The limitation contained in this subdivision does not apply to refunding bonds issued by the council.

Subd. 2. Legal investments. Certificates of indebtedness, bonds, or other obliga-

tions issued by the council to which tax levies have been pledged pursuant to section 473.446, are proper for investment of any funds by a bank, savings bank, savings and loan association, credit union, trust company, insurance company, or public or municipal corporation, and may be pledged by any bank, savings bank, savings and loan association, credit union, or trust company as security for the deposit of public money.

Subd. 3. [Repealed, 1Sp1985 c 10 s 123 subd 1]

History: 1984 c 654 art 3 s 124; 1Sp1985 c 10 s 102-104; 1986 c 460 s 39,40; 1987 c 278 s 17,18; 1987 c 358 s 120

473.391 ROUTE PLANNING AND SCHEDULING.

The regional transit board shall contract with the metropolitan transit commission or other operators or local governments for route planning and scheduling services in any configuration of new or reconfiguration of existing transit services and routes, including route planning and scheduling necessary for the test marketing program, the service bidding program, and the interstate highway described in section 161.123, clause (2), commonly known as I-394. Route planning and scheduling is subject to approval by the board for conformity to the board's transit implementation plans and route, schedule, and other service standards, objectives, and policies established by the board.

History: 1987 c 278 s 22

473.392 SERVICE BIDDING.

The regional transit board may competitively bid transit service only in accordance with standards, procedures, and guidelines adopted by resolution of the board. The board shall establish a project management team to assist and advise the board in developing and implementing standards, procedures, and guidelines. The project management team must include representatives of the metropolitan transit commission, the Amalgamated Transit Union Local 1005, private operators, local governments, and other persons interested in the subject. At least 60 days before adopting any standards, procedures, or guidelines for competitive bidding of transit service, the board shall hold a public hearing on the subject. The board shall publish notice of the hearing in newspapers of general circulation in the metropolitan area not less than 15 days before the hearing. At the hearing all interested persons must be afforded an opportunity to present their views orally and in writing. Following the hearing, and after considering the testimony, the board shall revise and adopt the standards, procedures, and guidelines.

History: 1987 c 278 s 23

473.393 [Repealed, 1988 c 675 s 24]

473.394 BOARD EXEMPT FROM TAXATION.

The properties, moneys, and other assets of the transit board, all revenues or other income of the board, are exempt from all taxation, licenses, fees, or charges of any kind imposed by the state or by any county, municipality, political subdivision, taxing district, or other public agency or body of the state.

History: 1984 c 654 art 3 s 125

473.398 TRANSIT NEEDS ASSESSMENT.

(a) The metropolitan council, the regional transit board, and the metropolitan transit commission may not either separately or in combination expend or obligate any money from public sources for study, planning, design, preliminary engineering, engineering, acquisition, construction, or any other purpose related to facilities for transporting passengers by cars operating on fixed rails, without express legislative authorization.

(b) Before performing any further detailed work on light rail transit, the regional transit board shall complete the total assessment of transit service needs and markets

for the metropolitan area and the implementation plan required by section 473.377, subdivisions 1 and 2. It may consider any mode of travel to serve identified needs and markets.

(c) Following approval of the implementation plan by the metropolitan council, as required by section 473.377, subdivision 1, the regional transit board may commence corridor planning, consisting of preliminary engineering for general route configuration and alignments, station locations, modal interconnectors, and access of any modes including light rail transit, for the corridor between the downtowns of Minneapolis and St. Paul if the needs assessment and implementation plan so provide. It may utilize private or public funds to do this work.

(d) The board shall report to the legislature by December 1, 1986, on the needs, alternative transit systems, and services considered and recommendations for implementation, costs, alternative sources of financing, and preferred financing sources.

History: *1Sp1985 c 10 s 105; 1987 c 405 s 4*

473.401 [Repealed, 1984 c 654 art 3 s 153]

473.402 [Repealed, 1984 c 654 art 3 s 153]

473.403 [Repealed, 1984 c 654 art 3 s 153]

473.404 METROPOLITAN TRANSIT COMMISSION.

Subdivision 1. Establishment. There is created a metropolitan transit commission.

Subd. 2. Membership. The transit commission consists of three members appointed by the transit board. One member must be a resident of the city of Minneapolis, one must be a resident of the city of St. Paul, and one must reside in the service area of the commission outside of Minneapolis and St. Paul. Appointments are not subject to the advice and consent of the senate.

Subd. 3. Terms. The term of each member of the commission is three years and until a successor is appointed and qualified. The initial terms of members commence on the first day after August 1, 1984, that all three members have been appointed and qualified. One member must be appointed to an initial term of one year, one to an initial term of two years, and one to an initial term of three years. The terms of members of the transit commission appointed and serving on August 1, 1984, pursuant to Minnesota Statutes 1982, section 473.141, expire on the day that the terms of members appointed pursuant to this section commence.

Subd. 4. Chair. The commission shall annually elect a member to serve as the chair of the commission for a term of one year. The chair shall preside at all meetings of the commission, if present, and shall perform all other duties assigned by the commission or by law. The chair may call special meetings of the commission.

Subd. 5. Qualification. Each member of the commission must have management experience. A member shall not during a term of office be a member of the metropolitan council, the regional transit board, the metropolitan waste control commission, the metropolitan airports commission, the metropolitan sports facilities commission, or any other independent regional commission, board, or agency, or hold any judicial office. Each member shall qualify by taking and subscribing to the oath of office prescribed by the Minnesota Constitution, article 5, section 5. The oath, duly certified by the official administering it, must be filed with the metropolitan council.

Subd. 6. Removal; vacancies. Members may be removed by the transit board only for cause in the manner specified in chapter 351. If the office of a member becomes vacant, under the conditions specified in chapter 351, the vacancy must be filled in the same manner in which the appointment to that office was made.

Subd. 7. Compensation. Each member, including the chair, must be compensated as provided for commission members in section 473.141, subdivision 7.

Subd. 8. Organization. The commission shall be organized into an operations division and an administration and operations planning division. The head of each division shall report to the chief administrator.

Subd. 9. **Administration.** The commission must be administered as provided in section 473.141, subdivisions 8, 9, 10, 11, 12, 13, and 14, except as otherwise provided in sections 473.404 to 473.449.

History: 1975 c 13 s 55; 1984 c 654 art 3 s 126; 1984 c 655 art 2 s 21 subd 1; 1Sp1985 c 10 s 106; 1986 c 444

473.405 POWERS.

Subdivision 1. **General.** The transit commission has the powers and duties prescribed by sections 473.404 to 473.449 and all powers necessary or convenient to discharge its duties.

Subd. 2. **Legal status.** The commission is a public corporation and a political subdivision of the state.

Subd. 3. **Property.** The commission may acquire, own, hold, use, improve, operate, maintain, lease, exchange, transfer, sell, or otherwise dispose of property, franchises, easements, or property rights or interests of any kind. The commission may acquire by purchase, lease, gift, or condemnation proceedings pursuant to chapter 117. Except as provided in subdivision 9, the commission 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 commission may contract with an operator or other persons for the use by the operator or person of any property under the commission's control.

Subd. 4. **Transit systems.** The commission may engineer, construct, equip, and operate transit and paratransit systems, projects, or any parts thereof, including road lanes or rights of way, terminal facilities, maintenance and garage facilities, ramps, parking areas, and any other facilities useful for or related to any public transit or paratransit system or project.

Subd. 5. **Acquisition of transit systems.** The commission may acquire by purchase, lease, gift, or condemnation proceedings any existing public transit system or any part thereof, including all or any part of the plant, equipment, shares of stock, property, real, personal, or mixed, rights in property, reserve funds, special funds, franchises, licenses, patents, permits and papers, documents and records belonging to any operator of a public transit system within the metropolitan area, and may in connection therewith assume any or all liabilities of any operator of a public transit system. The commission may not acquire any existing public transit system until the acquisition has been approved by the transit board and the metropolitan council. The commission may take control of and operate a system immediately following the filing and approval of the initial petition for condemnation, if the commission, in its discretion, determines this to be necessary, and may take possession of all right, title and other powers of ownership in all properties and facilities described in the petition. Control must be taken by resolution which is effective upon service of a copy on the condemnee and the filing of the resolution in the condemnation action. In the determination of the fair value of the existing public transit system, there must not be included any value attributable to expenditures for improvements made by the transit commission.

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

Subd. 6. **Planning.** The commission shall prepare the operations plans and service plans required by the board for submission to the board for approval.

Subd. 7. **Actions.** The commission may sue and be sued.

Subd. 8. **Contracts.** The commission may enter into contracts necessary or proper for the exercise of its powers or the accomplishment of its purposes.

Subd. 9. **Condemnation of public property or property of public service corporations.** 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 300.03, 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 commission 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 commission by condemnation may not be authorized unless the court finds and determines that there is greater public necessity for the proposed use by the commission than for the existing use.

Subd. 10. Voluntary transfer of public property to the commission. 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 commission, 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 commission for any authorized purpose. In any case where the construction of a facility has not been completed, the public agency concerned may also transfer, sell, assign, and set over to the commission, with or without consideration, any existing contract for the construction of the facilities.

Subd. 11. Gifts and grants. The commission may accept gifts, grants, or loans of money or other property from the United States, the state, or any person or entity, may enter into any agreement required in connection therewith, may comply with any federal or state laws or regulations applicable thereto, and may hold, use, and dispose of the money or property in accordance with the terms of the gift, grant, loan, or agreement.

Subd. 12. Management contracts. Notwithstanding any of the other provisions of sections 473.404 to 473.449, the commission may, in lieu of directly operating any public transit system or any part thereof, enter into contracts for management services. The contracts may provide for compensation, incentive fees, the employment of personnel, the services provided, and other terms and conditions that the commission deems proper.

The commission may not permit a contract manager to supervise or manage internal audit activities. Internal audit activity must be supervised and managed directly by the commission. The commission shall advertise for bids and select contracts for management services through competitive bidding. The term of the contract may not be longer than two years. The contract must include clear operating objectives, stating the service policies and goals of the commission in terms of the movement of various passenger groups, and performance criteria, by means of which success in achieving the operating objectives can be measured. The commission shall consider and determine the feasibility and desirability of having all its transit management services provided internally by employees of the commission.

The employees of any public transit system operated pursuant to the provisions of this subdivision for the purpose of resolving any dispute arising under any existing or new collective bargaining agreement relating to the terms or conditions of their employment, may either engage in a concerted refusal to work or to invoke the processes of final and binding arbitration as provided by chapter 572, subject to any applicable provisions of the agreement not inconsistent with law.

Subd. 13. Insurance. The commission may provide for self-insurance or otherwise provide for insurance relating to any of its property, rights, or revenue, workers' compensation, public liability, or any other risk or hazard arising from its activities, and may provide for insuring any of its officers or employees against the risk or hazard at the expense of the commission. If the commission provides for self-insurance, against its liability and the liability of its officers, employees, and agents for damages resulting from its torts and those of its officers, employees, and agents, including its obligation to pay basic economic loss benefits under sections 65B.41 to 65B.71, it shall be entitled to deduct from damages and basic economic loss benefits all money paid or payable to the persons seeking damages and benefits from all governmental entities providing medical, hospital, and disability benefits except for payments made under the aid to families with dependent children or medical assistance programs.

Subd. 7. Employee plan. The commission may offer monthly passes for regular route bus service for sale to employers at a special discount subject to the provisions of this subdivision. An employer may be eligible to purchase passes at a special discount if the employer agrees to establish a payroll deduction plan as a means for its employees to purchase the passes at a price at or below the amount charged by the commission. The special discount on passes sold pursuant to this subdivision shall be determined by the commission.

History: 1977 c 454 s 36; Ex1979 c 1 s 48,49; 1980 c 614 s 152; 1981 c 363 s 51,52; 3Sp1981 c 2 art 1 s 70; 1983 c 27 s 1-3; 1983 c 293 s 104; 1Sp1985 c 10 s 108,109

473.409 AGREEMENTS WITH COMMISSION; ENCOURAGEMENT OF TRANSIT USE.

A state department or agency, including the legislative branch, any local governmental unit, the metropolitan council, or other metropolitan agency may enter into an agreement with the transit commission and other operators for the purpose of encouraging the use of transit by its employees residing in the metropolitan area. The agreement may provide for, among other things: (a) the advance purchase of tokens, tickets or other devices from the commission or other operator for use in lieu of fares on vehicles operated by the commission or other operator; and (b) special transit service for employees to and from their place of employment, at fares to be agreed upon by the contracting parties. The tokens, tickets, or other devices or services may be made available to employees at reduced rates. Any such agreement and arrangement by a state department or agency shall be submitted to the commissioner of administration for approval before execution. Any operating deficits or subsidy resulting from such agreements shall be assumed by the contracting department, agency, governmental unit, council, or other commission, unless otherwise provided in an agreement approved by the transit board.

History: 1977 c 454 s 37; 1984 c 654 art 3 s 128; 1986 c 460 s 41

473.411 TRANSIT AND HIGHWAY SYSTEMS.

Subdivision 1. [Repealed, 1984 c 654 art 3 s 153]

Subd. 2. [Repealed, 1977 c 454 s 49]

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

Subd. 4. State highways; joint use for transit and highway purposes. Wherever the joint construction or use of a state highway is feasible in fulfilling the purposes of sections 473.404 to 473.449, the transit commission shall enter into an agreement with the commissioner of transportation therefor, evidenced by a memorandum setting forth the terms of the agreement. Either the commission or the commissioner of transportation may acquire any additional lands, waters, easements or other rights or interests required for joint use in accordance with the agreement, or joint acquisition may be made by condemnation as provided by section 117.016 and the provisions of sections 473.404 to 473.449. Under the agreement each party shall pay to the other party reasonable compensation for the costs of any services performed at the request

of the other party which may include any costs of engineering, design, acquisition of property, construction of the facilities, and for the use thereof so far as attributable to and necessary for the purposes. The commission may not agree to acquisitions or expenditures under this subdivision which are not included in its budget.

Subd. 5. Use of public roadways and appurtenances. The transit commission may use for the purposes of sections 473.404 to 473.449 upon the conditions stated in this subdivision any state highway or other public roadway or lane, or any bridge or tunnel or other appurtenance of a roadway, without payment of any compensation, provided the use does not interfere unreasonably with the public use or maintenance of the roadway or appurtenance or entail any substantial additional costs for maintenance. The provisions of this subdivision do not apply to the property of any common carrier railroad or common carrier railroads. The consent of the public agency in charge of such state highway or other public highway or roadway or appurtenance is not required, but if the agency objects to the proposed use or claims reimbursement from the commission for additional cost of maintenance, it may commence an action against the commission in the district court of the county wherein the highway, roadway, or appurtenance, or major portion thereof, is located. The proceedings in the action must conform to the rules of civil procedure applicable to the district courts. The court shall sit without jury. If the court determines that the use in question interferes unreasonably with the public use or maintenance of the roadway or appurtenance, it shall enjoin the use by the commission. If the court determines that the use in question does not interfere unreasonably with the public use or maintenance of the roadway or appurtenance, but that it entails substantial additional maintenance costs, the court shall award judgment to the agency for the amount of the additional costs. Otherwise the court shall award judgment to the commission. An aggrieved party may appeal from the judgment of the district court in the same manner as is provided for such appeals in other civil actions. The commission may also use land within the right of way of any state highway or other public roadway for the erection of traffic control devices, other signs, and passenger shelters upon the conditions stated in this subdivision and subject only to the approval of the commissioner of transportation where required by statute, and subject to the express provisions of other applicable statutes and to federal requirements where necessary to qualify for federal aid.

History: 1975 c 13 s 57; 1976 c 166 s 7; 1977 c 454 s 38,39; Ex1979 c 1 s 50; 1981 c 356 s 240; 1981 c 363 s 53; 1984 c 654 art 3 s 129; 1987 c 384 art 2 s 1

473.413 [Repealed, 1984 c 654 art 3 s 153]

473.415 LABOR PROVISIONS.

Subdivision 1. If the commission acquires an existing transit system, the commission shall assume and observe all existing labor contracts and pension obligations. All employees of such system except executive and administrative officers who are necessary for the operation thereof by the commission shall be transferred to and appointed as employees of the commission for the purposes of the transit system, subject to all the rights and benefits of sections 473.404 to 473.449. Such employees shall be given seniority credit and sick leave, vacation, insurance, and pension credits in accordance with the records or labor agreements from the acquired transit system. The commission shall assume the obligations of any transit system acquired by it with regard to wages, salaries, hours, working conditions, sick leave, health and welfare and pension or retirement provisions for employees. The commission and the employees, through their representatives for collective bargaining purposes, shall take whatever action may be necessary to have pension trust funds presently under the joint control of the acquired system and the participating employees through their representatives transferred to the trust fund to be established, maintained and administered jointly by the commission and the participating employees through their representatives. No employee of any acquired system who is transferred to a position with the commission shall by reason of such transfer be placed in any worse position with respect to workers'

compensation, pension, seniority, wages, sick leave, vacation, health and welfare insurance or any other benefits than the employee enjoyed as an employee of such acquired system.

Subd. 2. For any employees of the commission who were transferred to and appointed as employees of the commission upon completion of acquisitions of transit systems which occurred prior to the effective date of Laws 1978, chapter 538, the provisions of Laws 1978, chapter 538 shall replace the provisions of subdivision 1 relating to the pension obligations which the commission is required to assume, and the pension or retirement plan and pension trust funds which the commission is required to establish, maintain and administer. Upon compliance with the applicable provisions of Laws 1978, chapter 538, the commission shall not be deemed to have placed any employee of the commission who was transferred to and appointed as an employee of the commission upon completion of acquisitions of transit systems which occurred prior to the effective date of Laws 1978, chapter 538 in any worse position with respect to pension and related benefits than the employee of the commission enjoyed as an employee of the acquired existing transit system.

Subd. 3. For any employees of the commission who are transferred to and appointed as employees of the commission upon completion of acquisitions of transit systems which occur subsequent to the effective date of Laws 1978, chapter 538, those employees shall be governed by the provisions of Laws 1978, chapter 538 unless the acquisition of the transit system which employed them immediately preceding the acquisition included the acquisition of a pension trust fund under the joint control of the acquired system and the participating employees through their representatives.

History: 1975 c 13 s 59; 1975 c 359 s 23; 1977 c 454 s 42; 1978 c 538 s 7; 1986 c 444; 1987 c 384 art 2 s 1

473.416 COMMISSION; TAKING OVER PERSONNEL AND CONTRACTS OF TRANSIT SYSTEMS.

Whenever the transit commission directly operates any public transit system, or any part thereof, or enters into any management contract or other arrangement for the operation of a system, the commission shall take the action necessary to extend to employees of the affected public transit systems, in accordance with seniority, the first opportunity for reasonably comparable employment in any available nonsupervisory jobs in respect to such operations for which they can qualify after a reasonable training period. The employment must not result in any worsening of the employee's position in the employee's former employment nor any loss of wages, hours, working conditions, seniority, fringe benefits, and rights and privileges pertaining thereto. The commission may enter into an agreement specifying fair and equitable arrangements to protect the interests of employees who may be affected if the commission should acquire any interest in or purchase any facilities or other property of a privately owned and operated transit system, or construct, improve, or reconstruct any facilities or other property acquired from any system, or provide by contract or otherwise for the operation of transportation facilities or equipment in competition with, or supplementary to, the service provided by an existing transit system. The agreement, specifying the terms and conditions of the protective arrangements, must comply with any applicable requirements of sections 473.404 to 473.449, and with the requirements of any federal law or regulation if federal aid is involved. The agreement may provide for final and binding arbitration of any dispute.

The commission, upon commencing operations under sections 473.404 to 473.449, shall, so far as deemed practicable and advisable in the discretion of the commission and subject to the provisions hereof, take over and employ in corresponding positions or other suitable positions the professional, technical, and other personnel employed by the existing metropolitan transit commission, hereinafter called the joint powers transit commission, created by the joint and cooperative agreement heretofore made between certain governmental units of the transit area pursuant to section 471.59. The transit commission created by sections 473.401 to 473.451 shall upon like conditions

take over any contracts made by the joint powers transit commission and in force on July 1, 1967 for professional or technical services, rental of office space or other facilities, or other contracts relating to any matter within the purposes of sections 473.401 to 473.451. The joint powers transit commission shall execute all instruments which may be necessary to effectuate the provisions of this section.

History: 1975 c 13 s 60; 1984 c 654 art 3 s 130; 1986 c 444; 1987 c 384 art 2 s 1

473.417 ADDITIONAL EMPLOYER OBLIGATION TO AMORTIZE UNFUNDED ACCRUED LIABILITIES.

In order to amortize the additional unfunded accrued liability incurred by the Minnesota state retirement system as a result of the consolidation of the metropolitan transit commission-transit operating division employees retirement fund, and to place the metropolitan transit commission on an equivalent basis with the other employing units and agencies having employees covered by the Minnesota state retirement system, the metropolitan transit commission shall make an annual contribution to the Minnesota state retirement system in addition to the employer contribution specified in section 352.04, subdivision 3. The additional contribution shall be an amount equal to 3-8/10 percent of the salaries of employees of the transit operating division on each payroll abstract, commencing July 1, 1978, and payable until the unfunded accrued liability amount of \$7,307,545 plus compound interest from July 1, 1978 at the rate of six percent per annum on the average unpaid balance is amortized, as determined by the executive director of the Minnesota state retirement system.

History: 1978 c 538 s 12; 1980 c 342 s 16; 1980 c 600 s 10

473.418 DISABILITY AND SURVIVORSHIP COVERAGE.

From and after the effective date of Laws 1978, chapter 538, the metropolitan transit commission shall provide for all active employees of the transit operating division of the metropolitan transit commission disability and survivorship coverage which, when added to the disability benefit or the survivorship benefit payable from the Minnesota state retirement system pursuant to section 352.113 or 352.12, subdivision 2, will at least equal the disability benefit or the survivorship benefit which that employee at the time of disability or the employee's surviving spouse at the time of the death of the employee while on active duty would have been entitled to receive under the disability benefit or survivor of active employee deceased while on active duty benefit provisions of the metropolitan transit commission-transit operating division employees retirement fund plan document in effect on December 31, 1977. The metropolitan transit commission shall not be required to provide any supplementary disability benefit coverage or benefit amount to replace the amount of any reduction in any disability payable from the Minnesota state retirement system due to the receipt of benefits under the workers' compensation law unless no offset of the amount of workers' compensation benefits from the amount of a disability benefit was required pursuant to the provisions of article 10 of the metropolitan transit commission-transit operating division employees retirement fund plan document in effect on December 31, 1977. The metropolitan transit commission may elect to provide the additional disability and survivorship coverage either through contract with an insurance carrier or through self-insurance. If the commission elects to provide the coverage through an insurance contract, the chair of the metropolitan transit commission is authorized to request bids from, or to negotiate with, insurance carriers and to enter into contracts with carriers which in the judgment of the commission are best qualified to underwrite and service this insurance benefit coverage. The commission shall consider factors such as the cost of the contracts as well as the service capabilities, character, financial position and reputation with respect to carriers under consideration, as well as any other factors which the commission deems appropriate. The disability and survivorship insurance contract with the particular insurance carrier shall be for a uniform term of at least one year, but may be made automatically renewable from term to term in absence of notice of termination by either party. The disability and survivorship

insurance contract shall contain a detailed statement of benefits offered, maximums, limitations, and exclusions. A summary description of the essential terms of the contract shall be provided by the commission to the labor organization which is the exclusive bargaining agent representing employees of the transit operating division of the metropolitan transit commission and to each active employee of the transit operating division. The determination of whether the disability or survivorship insurance coverage meets the minimum requirements of this section shall be made by the commission upon consultation with the executive director of the Minnesota state retirement system. If the disability or survivorship coverage provided by the metropolitan transit commission fails at any time after the effective date of Laws 1978, chapter 538, to meet the requirements of this section as to the level of disability or survivorship coverage to be provided, the deficiency in the actual benefits provided shall continue to be an obligation of the commission. Notwithstanding any provisions of chapter 179 to the contrary, the labor organization which is the exclusive bargaining agent representing employees of the transit operating division of the metropolitan transit commission may meet and bargain with the commission on an increase in the level of disability or survivor of active employee deceased while on active duty coverage to be provided by the commission at the same time that wages and other terms and conditions of employment are considered. This section does not apply to employees hired after December 31, 1977.

History: 1978 c 538 s 13; 1980 c 342 s 17; 1986 c 444; 1988 c 709 art 4 s 1

473.419 [Repealed, 1987 c 284 art 2 s 9]

473.42 EMPLOYER CONTRIBUTIONS FOR CERTAIN EMPLOYEES.

Notwithstanding any contrary provisions of section 352.029, the metropolitan transit commission shall make the employer contributions required pursuant to section 352.04, subdivision 3, for any employee on authorized leave of absence from the transit operating division of the metropolitan transit commission who is employed by the labor organization which is the exclusive bargaining agent representing employees of the transit operating division and who is covered by the Minnesota state retirement system in addition to all other employer contributions the commission is required to make.

History: 1978 c 538 s 16

473.421 [Repealed, 1977 c 454 s 49]

473.422 [Repealed, 1977 c 454 s 49]

473.423 [Repealed, 1977 c 454 s 49]

473.424 [Repealed, 1977 c 454 s 49]

473.425 [Repealed, 1977 c 454 s 49]

473.435 FINANCE.

Subdivision 1. Budget. In furtherance of and in conformance with the implementation plan of the transit board, the transit commission each year shall prepare an annual budget, at the time, in the form, and containing the information prescribed by the board, and, after holding a public hearing on the budget, shall submit the budget to the board for review and approval or disapproval. The board may approve or disapprove the budget in whole or in part. The board may attach conditions to its approval. The board shall approve elements that the board determines are in conformance with the board's implementation plan and budget and shall disapprove elements that the board determines are not in conformance with the board's implementation plan and budget. The board shall return the budget to the commission, with comments indicating the reasons for any disapproval. If necessary, the commission shall make any appropriate amendments and resubmit the budget to the board for approval or disapproval.

Subd. 2. Audit. The commission must be audited at least once each year. The commission may elect to be audited by a certified public accountant or by the state auditor. If the commission chooses the state auditor, the state auditor shall make an audit, either directly or by subcontract, of the commission's financial accounts and affairs at least once each year. Copies of the auditor's report shall be filed and kept open to public inspection in the offices of the secretary of the commission, the board, and the secretary of state. The information in the audit shall be contained in the annual report and distributed in accordance with section 473.445. The commission shall pay the total cost of the audit, including the salaries paid to the examiners while actually engaged in making the examination. The state auditor may bill monthly or at the completion of the audit. All collections received for the state audits must be deposited in the revolving fund of the state auditor.

History: 1975 c 13 s 66; 1980 c 614 s 153; 1984 c 654 art 3 s 131; 1Sp1985 c 10 s 110

473.436 COMMISSION; BORROWING MONEY.

Subdivision 1. [Repealed, 1Sp1985 c 10 s 123 subd 1]

Subd. 2. Legal investments. Certificates of indebtedness, bonds, or other obligations issued by the commission to which tax levies have been pledged pursuant to section 473.446, subdivision 1 shall be proper for investment of any funds by any bank, savings bank, savings and loan association, credit union, trust company, insurance company or public or municipal corporation, and may be pledged by any bank, savings bank, savings and loan association, credit union, or trust company as security for the deposit of public moneys.

Subd. 3. Tax exempt. Certificates of indebtedness, bonds, or other obligations of the commission shall be deemed and treated as instrumentalities of a public government agency.

Subd. 4. [Repealed, 1Sp1985 c 10 s 123 subd 1]

Subd. 5. [Repealed, 1Sp1985 c 10 s 123 subd 1]

Subd. 6. Temporary borrowing. On or after the first day of any fiscal year, the commission may borrow money which may be used or expended by the commission for any purpose, including but not limited to current expenses, capital expenditures and the discharge of any obligation or indebtedness of the commission. The indebtedness must be represented by a note or notes which may be issued from time to time in any denomination and sold at public or private sale pursuant to a resolution authorizing the issuance. The resolution must set forth the form and manner of execution of the notes and shall contain other terms and conditions the commission deems necessary or desirable to provide security for the holders of the notes. The note or notes are payable from committed or appropriated money from taxes, grants or loans of the state or federal government made to the commission, or other revenues of the commission, and the money may be pledged to the payment of the notes. The commission is authorized to pledge to the payment of the note or notes taxes levied by the regional transit board under section 473.446, subdivision 1, clause (a), and if taxes are so pledged the board shall transfer amounts received from the levy to the commission for payment of the note or notes. To the extent the notes are not paid from the grant or loan money pledged for the payment thereof, the principal and interest of the notes must be paid from any taxes received by the transit board and any income and revenue received by or accrued to the commission during the fiscal year in which the note or notes were issued, or other money of the commission lawfully available therefor.

Subd. 7. Approval by board. Commencing on the day that the transit board has adopted an approved interim implementation plan and financial plan, pursuant to sections 473.377 and 473.38, the transit commission may not issue debt under this section without the approval of the board.

History: 1979 c 46 s 1; 1980 c 462 s 2; 1983 c 213 s 21; 1983 c 293 s 105; 1983 c 344 s 25; 1984 c 654 art 3 s 132,133; 1Sp1985 c 10 s 111

473.437 [Repealed, 1977 c 454 s 49]

473.438 [Repealed, 1Sp1985 c 10 s 123 subd 1]

473.443 [Repealed, 1977 c 454 s 49]

473.445 COMMISSION; ANNUAL REPORTS.

Subdivision 1. The transit commission on or before November 30 of each year shall prepare a report for the preceding fiscal year, also, so far as practicable, for the further time up to the preparation of the report, containing, in addition to such other matters as the commission may deem proper, the following:

- (a) the activities of the commission during the period covered by the report;
- (b) the financial condition of public transit systems under the control of the commission; and
- (c) a complete financial accounting of the financial accounts and affairs of the commission during the fiscal year.

Subd. 2. [Repealed, 1977 c 454 s 49]

Subd. 3. Each report must be filed with the secretary of the commission and a copy must be filed with the board, the council, and the secretary of state. Copies must also be submitted to the legislature by November 15 of each even-numbered year and distributed annually to the governor, to each member of the legislature, to each county, and to each elected chief executive of each municipality in the metropolitan area.

History: 1975 c 13 s 70; 1977 c 454 s 43; 1984 c 654 art 3 s 134

473.446 TRANSIT TAX LEVIES.

Subdivision 1. **Taxation within transit taxing district.** For the purposes of sections 473.404 to 473.449 and the metropolitan transit system, except as otherwise provided in this subdivision the regional transit board shall levy each year upon all taxable property within the metropolitan transit taxing district, defined in subdivision 2, a transit tax consisting of:

- (a) an amount which shall be used for payment of the expenses of operating transit and paratransit service and to provide for payment of obligations issued by the commission under section 473.436, subdivision 6;
- (b) an additional amount, if any, as the board determines to be necessary to provide for the full and timely payment of its certificates of indebtedness and other obligations outstanding on July 1, 1985, to which property taxes under this section have been pledged; and
- (c) an additional amount necessary to provide full and timely payment of certificates of indebtedness, bonds, including refunding bonds or other obligations issued or to be issued under section 473.39 by the council for purposes of acquisition and betterment of property and other improvements of a capital nature and to which the council or board has specifically pledged tax levies under this clause.

The property tax levied by the regional transit board for general purposes under clause (a) must not exceed the following amount for the years specified:

- (1) for taxes payable in 1988, the product of two mills multiplied by the total assessed valuation of all taxable property located within the metropolitan transit taxing district as adjusted by the provisions of Minnesota Statutes 1986, sections 272.64; 273.13, subdivision 7a; and 275.49;
- (2) for taxes payable in 1989, the product of (i) the regional transit board's property tax levy limitation for general purposes for the taxes payable year 1988 determined under clause (1) multiplied by (ii) an index for market valuation changes equal to the assessment year 1988 total market valuation of all taxable property located within the metropolitan transit taxing district divided by the assessment year 1987 total market valuation of all taxable property located within the metropolitan transit taxing district; and
- (3) for taxes payable in 1990 and subsequent years, the product of (i) the regional

transit board's property tax levy limitation for general purposes for the previous year determined under this subdivision multiplied by (ii) an index for market valuation changes equal to the total market valuation of all taxable property located within the metropolitan transit taxing district for the current assessment year divided by the total market valuation of all taxable property located within the metropolitan transit taxing district for the previous assessment year.

For the purpose of determining the regional transit board's property tax levy limitation for general purposes for the taxes payable year 1988 and subsequent years under this subdivision, "total market valuation" means the total market valuation of all taxable property within the metropolitan transit taxing district without valuation adjustments for fiscal disparities (chapter 473F), tax increment financing (sections 469.174 to 469.179), and high voltage transmission lines (section 273.425).

The county auditor shall reduce the tax levied pursuant to this subdivision on all property within statutory and home rule charter cities and towns that receive full peak service and limited off-peak service by an amount equal to the tax levy that would be produced by applying a rate of 0.5 mills on the property. The county auditor shall reduce the tax levied pursuant to this subdivision on all property within statutory and home rule charter cities and towns that receive limited peak service by an amount equal to the tax levy that would be produced by applying a rate of 0.75 mills on the property. The amounts so computed by the county auditor shall be submitted to the commissioner of revenue as part of the abstracts of tax lists required to be filed with the commissioner under section 275.29. Any prior year adjustments shall also be certified in the abstracts of tax lists. The commissioner shall review the certifications to determine their accuracy and may make changes in the certification as necessary or return a certification to the county auditor for corrections. The commissioner shall pay to the regional transit board the amounts certified by the county auditors on the dates provided in section 273.1398. There is annually appropriated from the general fund in the state treasury to the department of revenue the amounts necessary to make these payments in fiscal year 1987 and thereafter.

For the purposes of this subdivision, "full peak and limited off-peak service" means peak period regular route service, plus weekday midday regular route service at intervals longer than 60 minutes on the route with the greatest frequency; and "limited peak period service" means peak period regular route service only.

Subd. 1a. Taxation within transit area. For the purposes of sections 473.404 to 473.449, and the metropolitan transit system, the regional transit board shall levy upon all taxable property within the metropolitan transit area but outside of the metropolitan transit taxing district, defined in subdivision 2, a transit tax, which shall be equal to ten percent of the sum of the levies provided in subdivision 1, clauses (a) to (c). The proceeds of this tax shall be used only for paratransit services or ride sharing programs designed to serve persons located within the transit area but outside of the transit taxing district.

Subd. 2. Transit taxing district. The metropolitan transit taxing district is hereby designated as that portion of the metropolitan transit area lying within the following named cities, towns, or unorganized territory within the counties indicated:

(a) Anoka county. Anoka, Blaine, Centerville, Columbia Heights, Coon Rapids, Fridley, Circle Pines, Hilltop, Lexington, Lino Lakes, Spring Lake Park;

(b) Carver county. Chanhassen, the city of Chaska;

(c) Dakota county. Apple Valley, Burnsville, Eagan, Inver Grove Heights, Lilydale, Mendota, Mendota Heights, Rosemount, South St. Paul, Sunfish Lake, West St. Paul;

(d) Ramsey county. All of the territory within Ramsey county;

(e) Hennepin county. Bloomington, Brooklyn Center, Brooklyn Park, Champlin, Chanhassen, Crystal, Deephaven, Eden Prairie, Edina, Excelsior, Golden Valley, Greenwood, Hopkins, Long Lake, Maple Grove, Medicine Lake, Minneapolis, Minnetonka, Minnetonka Beach, Mound, New Hope, Orono, Osseo, Plymouth, Richfield, Robbins-

dale, St. Anthony, St. Louis Park, Shorewood, Spring Park, Tonka Bay, Wayzata, Woodland, the unorganized territory of Hennepin county;

(f) Scott county. Prior Lake, Savage, Shakopee;

(g) Washington county. Baytown, the city of Stillwater, White Bear Lake, Bayport, Birchwood, Cottage Grove, Dellwood, Lake Elmo, Landfall, Mahtomedi, Newport, Oakdale, Oak Park Heights, Pine Springs, St. Paul Park, Willernie, Woodbury.

The commission in its sole discretion may provide transit service by contract beyond the boundaries of the metropolitan transit taxing district or to cities and towns within the taxing district which are receiving financial assistance under section 174.265, upon petition therefor by an interested city, township or political subdivision within the metropolitan transit area. The commission may establish such terms and conditions as it deems necessary and advisable for providing the transit service, including such combination of fares and direct payments by the petitioner as will compensate the commission for the full capital and operating cost of the service and the related administrative activities of the commission. The amount of the levy made by any municipality to pay for the service shall be disregarded when calculation of levies subject to limitations is made, provided that cities and towns receiving financial assistance under section 174.265 shall not make a special levy under this subdivision without having first exhausted the available local transit funds as defined in section 174.265. The commission shall not be obligated to extend service beyond the boundaries of the taxing district, or to cities and towns within the taxing district which are receiving financial assistance under section 174.265, under any law or contract unless or until payment therefor is received.

Subd. 2a. Protection of rights of holders of outstanding indebtedness. The provisions of subdivisions 1 and 2 or any other law changing the boundaries of the metropolitan transit taxing district or reducing the levy otherwise required to be levied within the district shall not be deemed to impair the rights of holders of outstanding indebtedness to require the levy of property taxes, if necessary to provide for any deficiency in accordance with the conditions of such indebtedness, on all property within the limits of the metropolitan transit taxing district as such limits were in effect at the date of issuance of such indebtedness.

Subd. 3. Certification and collection. Each county treasurer shall collect and make settlement of the taxes levied under subdivisions 1 and 1a with the treasurer of the board. The levy of transit taxes pursuant to this section shall not affect the amount or rate of taxes which may be levied by any county or municipality or by the board for other purposes authorized by law and shall be in addition to any other property tax authorized by law.

Subd. 4. [Repealed, 1977 c 454 s 49]

Subd. 5. [Repealed, 1977 c 454 s 49]

Subd. 6. [Repealed, 1Sp1985 c 10 s 123 subd 1]

Subd. 7. Protection of rights of holders of outstanding indebtedness. Beginning for taxes levied in 1984, payable in 1985, and for each succeeding year, the transit commission shall certify to the transit board before October 1 of each year the amounts necessary to provide full and timely payment of certificates of indebtedness, bonds, and other obligations of the commission, until all debt of the commission is fully discharged. As part of its levy made pursuant to subdivisions 1 and 6, the board shall levy the amounts certified by the commission and transfer the proceeds to the commission for payment of its obligations. The taxes must be levied, certified, and collected in accordance with the terms and conditions of the indebtedness. Nothing in Laws 1984, chapter 654 may impair the rights of holders of valid obligations of the commission to require a levy of property taxes. The transit board shall take the actions necessary to comply with the terms and conditions of the obligations, including if necessary the levy of property taxes to provide for a deficiency.

Subd. 8. State review. The commissioner of revenue shall annually determine whether the property tax for general purposes certified by the regional transit board for

levy following the adoption of its budget is within the levy limitation imposed by subdivision 1. The commissioner shall also annually determine whether the transit tax imposed on all taxable property within the metropolitan transit area but outside of the metropolitan transit taxing district is within the levy limitation imposed by subdivision 1a. To the extent practicable, the determination must be completed prior to November 1 of each year. If current information regarding market valuation in any county is not transmitted to the commissioner in a timely manner, the commissioner may estimate the current market valuation within that county for purposes of making the calculations.

History: 1975 c 13 s 71; 1975 c 203 s 4-8; 1976 c 166 s 7; 1977 c 454 s 44; 1979 c 46 s 2; 1980 c 607 art 13 s 1; 1980 c 614 s 190; 1981 c 363 s 54; 3Sp1981 c 2 art 1 s 71; 1983 c 17 s 13; 1983 c 293 s 106; 1984 c 502 art 3 s 25; 1984 c 654 art 3 s 135-137; 1984 c 655 art 2 s 11 subd 1; 1985 c 248 s 61; 1Sp1985 c 10 s 112-115; 1986 c 444; 1987 c 268 art 6 s 49; 1987 c 278 s 19; 1987 c 384 art 2 s 1; 1988 c 675 s 18-20; 1988 c 719 art 5 s 47

473.447 [Repealed, 1977 c 454 s 49]

473.448 COMMISSION; EXEMPTION FROM TAXATION.

Notwithstanding any other provision of law to the contrary, the properties, moneys, and other assets of the commission, all revenues or other income of the commission shall be exempt from all taxation, licenses, fees, or charges of any kind imposed by the state or by any county, municipality, political subdivision, taxing district, or other public agency or body of the state.

History: 1975 c 13 s 73; 1983 c 213 s 22

473.449 ACT EXCLUSIVE.

The exercise by the commission of the powers provided in sections 473.404 to 473.449 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 chapter.

History: 1975 c 13 s 74; 1984 c 654 art 3 s 138; 1987 c 384 art 2 s 1

473.451 [Repealed, 1984 c 654 art 3 s 153]

METROPOLITAN WASTE CONTROL COMMISSION

473.501 DEFINITIONS.

Subdivision 1. The terms defined in this section shall have the meanings given them for the purposes of sections 473.501 to 473.549 unless otherwise provided or indicated by the context.

Subd. 2. "Waste control commission" or "commission" means the commission established as provided in section 473.503.

Subd. 3. "Local government unit" or "government unit" means any municipal or public corporation or governmental subdivision or agency located in whole or in part in the metropolitan area, authorized by law to provide for the collection and disposal of sewage.

History: 1975 c 13 s 76

473.502 [Repealed, 1986 c 460 s 59]

473.503 METROPOLITAN WASTE CONTROL COMMISSION; ESTABLISHMENT.

A metropolitan waste control commission is established and shall be organized, structured and administered as provided in section 473.141.

History: 1975 c 13 s 78

473.504 GENERAL POWERS OF COUNCIL AND COMMISSION.

Subdivision 1. The metropolitan council and the commission shall each have all powers which may be necessary or convenient to discharge the duties imposed upon them by law. Such powers shall include those hereinafter specified, but the express grant or enumeration of powers shall not be deemed to limit the generality or scope of the grant of power contained in this subdivision. The exercise of any of its powers by the commission shall be consistent with the exercise by the metropolitan council of any of its powers. The council may delegate to the commission any powers conferred on the council under sections 473.503 to 473.547.

Subd. 2. The council or the commission may sue or be sued.

Subd. 3. The council or the commission may enter into any contract necessary or proper for the exercise of its powers or the accomplishment of its purposes.

Subd. 4. The commission shall have the power to adopt rules relating to the operation of any interceptors or treatment works operated by it, and may provide penalties for the violation thereof not exceeding the maximum which may be specified for a misdemeanor. Any rule prescribing a penalty for violation shall be published at least once in a newspaper having general circulation in the metropolitan area.

Subd. 5. The council or commission with the consent of the council may accept gifts, may apply for and accept grants or loans of money or other property from the United States, the state, or any person for any of its purposes, including any grant available under the federal water pollution act amendments of 1972, whether for construction, research or pilot project implementation, may enter into any agreement required in connection therewith, and may hold, use, and dispose of such money or property in accordance with the terms of the gift, grant, loan or agreement relating thereto. The commission with the consent of the council shall have all powers necessary to comply with the federal water pollution control act amendments of 1972 and any grant offered to it thereunder including, but not limited to, the power to enter into such contracts with, or to impose such charges upon, persons using the metropolitan disposal system as it shall determine to be necessary for the recovery of treatment works and interceptor costs paid with federal grant funds. Insofar as possible these costs shall be recovered by local government units on behalf of the commission.

Subd. 6. The council or commission may act under the provisions of section 471.59, or any other appropriate law providing for joint or cooperative action between government units.

Subd. 7. The commission may conduct research studies and programs, collect and analyze data, prepare reports, maps, charts, and tables, and conduct all necessary hearings and investigations in connection with the design, construction and operation of the metropolitan disposal system; and may advise and assist the metropolitan council and other government units on system planning matters within the scope of its powers, duties, and objectives.

Subd. 8. The commission may employ on such terms as it deems advisable, persons or firms performing engineering, legal or other services of a professional nature; require any employee to obtain and file with it an individual bond or fidelity insurance policy; and procure insurance in such amounts as it deems necessary against liability of the commission or its officers and employees or both, 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 as it deems necessary.

Subd. 9. The commission may acquire by purchase, lease, condemnation, gift, or

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

Subd. 10. The commission may construct or maintain its systems or facilities in, along, on, under, over, or through public streets, bridges, viaducts, and other public rights of way without first obtaining a franchise from any local government unit having jurisdiction over them; but such facilities shall be constructed and maintained in accordance with the ordinances and resolutions of any such government unit relating to construction, installation, and maintenance of similar facilities in such public properties and shall not obstruct the public use of such rights of way.

Subd. 11. The commission may sell or otherwise dispose of any real or personal property acquired by it which is no longer required for accomplishment of its purposes. Such property may be sold in the manner provided by section 469.065, insofar as practical. The commission may give such notice of sale as it shall deem appropriate. When the commission determines that any property or any interceptor or treatment works or any part thereof which has been acquired from a local government unit without compensation is no longer required, but is required as a local facility by the government unit from which it was acquired, the commission may by resolution transfer it to such government unit.

Subd. 12. The commission may contract with the United States or any agency thereof, any state or agency thereof, or any local government unit or governmental agency or subdivision, for the joint use of any facility owned by the commission or such entity, for the operation by such entity of any system or facility of the commission, or for the performance on the commission's behalf of any service, on such terms as may be agreed upon by the contracting parties.

History: 1975 c 13 s 79; 1976 c 166 s 7; 1985 c 248 s 70; 1987 c 291 s 229

473.511 SEWER SERVICE FUNCTION.

Subdivision 1. Duty of commission; acquisition of existing facilities; new facilities. At any time after January 1, 1970 the waste control commission shall assume ownership of all existing interceptors and treatment works which will be needed to implement the council's comprehensive plan for the collection, treatment, and disposal of sewage in the metropolitan area, in the manner and subject to the conditions prescribed in subdivisions 2 and 4, and shall thereafter acquire, construct, equip, operate and maintain all additional interceptors and treatment works which will be needed for such purpose. The commission shall assume ownership of all treatment works owned by a

local government unit if any part of such treatment works will be needed for such purpose.

Subd. 2. Method of acquisition; existing debt. The commission, with the approval of the council, may require any local government unit to transfer to the commission, all of its right, title and interest in any interceptors or treatment works and all necessary appurtenances thereto owned by such local government unit which will be needed for the purpose stated in subdivision 1. Appropriate instruments of conveyance for all such property shall be executed and delivered to the commission by the proper officers of each local government unit concerned. All persons regularly employed by a local government unit to operate and maintain any treatment works so transferred to the commission, on the date on which the transfer becomes effective, shall be employees of the commission, in the same manner and with the same options and rights as are reserved to employees of sanitary districts and joint boards under subdivision 3. The commission, upon assuming ownership of any such interceptors or treatment works, shall become obligated to pay to such local government unit amounts sufficient to pay when due all remaining principal of and interest on bonds issued by such local government unit for the acquisition or betterment of the interceptors or treatment works taken over. Such amounts may be offset against any amount to be paid to the commission by the local government unit as provided in section 473.517.

Subd. 3. Existing sanitary districts and joint sewer boards. Effective January 1, 1971, the corporate existence of the Minneapolis-St. Paul Sanitary District, the North Suburban Sanitary Sewer District, and any joint board created by agreement among local government units pursuant to section 471.59, to provide interceptors and treatment works for such local government units, shall terminate. All persons regularly employed by such sanitary districts and joint boards on that date or on any earlier date on which the waste control commission pursuant to subdivisions 1 and 2 assumes ownership and control of any interceptors or treatment works owned or operated by such sanitary districts and joint boards, shall be employees of the commission, and may at their option become members of the Minnesota state retirement system or may continue as members of a public retirement association under chapter 422A or any other law, to which they belonged before such date, and shall retain all pension rights which they may have under such latter laws, and all other rights to which they are entitled by contract or law. Members of trades who are employed by the metropolitan waste control commission, who have trade union pension coverage pursuant to a collective bargaining agreement, and who elected exclusion from coverage pursuant to section 473.512, or who are first employed after July 1, 1977 shall not be covered by the Minnesota state retirement system. The waste control commission shall make the employer's contributions to pension funds of its employees. Such employees shall perform such duties as may be prescribed by the commission. All funds of such sanitary districts and joint boards then on hand, and all subsequent collections of taxes, special assessments or service charges levied or imposed by or for such sanitary districts or joint boards shall be transferred to the waste control commission. The local government units otherwise entitled to such cash, taxes, assessments or service charges shall be credited with such amounts, and such credits shall be offset against any amounts to be paid by them to the waste control commission as provided in section 473.517. The waste control commission shall succeed to and become vested with all right, title and interest in and to any property, real or personal, owned or operated by such sanitary districts and joint boards; and prior to that date the proper officers of such sanitary districts and joint boards shall execute and deliver to the board all deeds, conveyances, bills of sale, and other documents or instruments required to vest in the commission good and marketable title to all such real or personal property. The waste control commission shall become obligated to pay or assume all bonded or other debt and contract obligations incurred by such sanitary districts and joint boards, or incurred by local government units for the acquisition or betterment of any interceptors or treatment works owned or operated by such sanitary districts or joint boards.

Subd. 4. Current value of existing facilities. When the commission assumes the ownership of any existing interceptors or treatment works as provided in subdivision

2 or 3, the local government unit or units which paid part or all of the cost of such facility, directly or pursuant to contracts for reimbursement of costs, shall be entitled to receive a credit against amounts to be allocated to them under section 473.517, which may be spread over such period not exceeding 30 years as the commission shall determine, and an additional credit equal to interest on the unused credit balance from time to time at the rate of four percent per annum. The amount of such credit shall equal the current value of the facility computed by the commission in the manner provided in this subdivision at the time the commission acquires it. The original cost of a facility shall be computed as the total actual costs of constructing it, including engineering, legal, and administrative costs, less any part of it paid from federal or state funds and less the principal amount of any then outstanding bonds which were issued to finance its construction. The original cost shall be multiplied by a factor equal to a current cost index divided by the same cost index at the time of construction, to determine replacement cost. The cost indices used shall be the Engineering News Record Construction Cost Indices for facilities or parts thereof completed before 1930, and the United States Public Health Service Federal Water Pollution Control Values for Sewer and Treatment Plant Construction, as applied to facilities or parts thereof completed in or after 1930. The current value of the facility shall be the replacement cost depreciated by 2.50 percent per annum from the date of construction of treatment works and 1.25 percent per annum from the date of construction of interceptors; and decreased further by a reasonable allowance for obsolescence if the board determines that the facility or any part thereof will not be useful for board purposes for at least the remaining period required to depreciate it fully, assuming no salvage value. The current value of each such facility shall be credited to each local government unit in proportion to the amount of the construction cost paid by that unit, as determined by the commission, taking into account reimbursements previously made under contracts between any of the local government units. The commission shall prepare an itemized statement of the amount of credit each local government unit is entitled to receive under this subdivision, and the years and amounts of installments of principal and interest thereon, and shall cause it to be mailed or delivered to the governing body of each local government unit concerned. All credits allowed under this subdivision shall be used to finance current costs allocated to the local government unit by the commission or for other sewer costs, and the credits shall not be considered as proceeds from the sale of municipal property so as to permit their use for other purposes.

Subd. 5. Contracts between local government units. On January 1, 1971, or on such earlier date or dates as the council shall by resolution determine, all contracts between or among local government units requiring payments by a local government unit to any other local government unit, for the use of a disposal system, or as reimbursement of capital costs of a disposal system, are terminated.

History: 1975 c 13 s 80; 1977 c 98 s 3; 1986 c 444; 1987 c 53 s 1

473.512 PENSION COVERAGE EXCLUSION FOR CERTAIN LABOR SERVICE EMPLOYEES.

Subdivision 1. A member of a trade who is employed by the metropolitan waste control commission on a permanent basis with trade union pension plan coverage pursuant to a collective bargaining agreement shall be excluded from coverage by the Minnesota state retirement system if the member was first employed on or after June 1, 1977 or, if the member was first employed prior to June 1, 1977, has elected to be excluded from coverage by the Minnesota state retirement system pursuant to subdivision 2 and has accepted a refund of contributions pursuant to subdivision 3.

Subd. 2. A member of a trade entitled under subdivision 1 to make an election of exclusion from pension coverage by the Minnesota state retirement system may make the election of exclusion no later than August 1, 1977 on forms provided by the executive director of the Minnesota state retirement system. The election of exclusion from coverage shall be a one time election irrevocable while employed in such capacity and shall have retroactive application to the first day of membership in the Minnesota state retirement system.

Subd. 3. Upon electing to be excluded from coverage as provided in subdivision 2 and making a valid application, a member of a trade shall be entitled to a refund of both the accumulated employee and the employer contributions made pursuant to Minnesota Statutes 1976, section 352.04, subdivision 3, on behalf of the member plus interest at the rate of 3-1/2 percent per annum compounded annually from the date of commencement of coverage, computed to the first day of the month in which the refund is processed and shall be based on fiscal year balances. The application for the refund may be made without the waiting period provided for in section 352.22, subdivision 1. No repayment of a refund made under this section shall be permitted.

History: 1977 c 98 s 4; 1986 c 444

473.513 MUNICIPAL PLANS AND PROGRAMS.

As soon as practicable after the adoption of the first policy plan by the council as provided in section 473.146, and before undertaking the construction of any extensions or additions to its disposal system or the substantial alteration or improvement of its existing disposal system, each local government unit shall adopt a similar policy plan for the collection, treatment and disposal of sewage for which the local government unit is responsible, coordinated with the council's plan, and may revise the same as often as it deems necessary. Each such plan shall be submitted forthwith to the waste control commission for review and shall be subject to the approval of the commission as to those features affecting the commission's responsibilities as determined by the commission. Any such features disapproved by the commission shall be modified in accordance with the commission's recommendations. No construction of new sewers or other disposal facilities, and no substantial alteration or improvement of any existing sewers or other disposal facilities involving such features, shall be undertaken by any local government unit unless its governing body shall first find the same to be in accordance with its comprehensive plan and program as approved by the commission. At the time each local government unit makes application to the Minnesota pollution control agency for a permit to alter or improve its disposal system it shall file with the commission a copy of the application together with design data and a location map of the project.

History: 1975 c 13 s 81

473.515 SEWAGE COLLECTION AND DISPOSAL; POWERS.

Subdivision 1. **Identification of powers.** In addition to all other powers conferred upon or delegated to the commission hereunder, it shall have the powers specified in this section.

Subd. 2. **Right to discharge treated sewage.** The commission shall have the right to discharge the effluent from any treatment works operated by it into any waters of the state in accordance with any effluent or water quality standards lawfully adopted by the pollution control agency.

Subd. 3. **Connections with metropolitan system.** The commission may require any person or local government unit in the metropolitan area to provide for the discharge of its sewage, directly or indirectly, into the metropolitan disposal system, or to connect any disposal system or part thereof with the metropolitan disposal system wherever reasonable opportunity therefor is provided; may regulate the manner in which such connections are made; may require any person or local government unit discharging sewage into the metropolitan disposal system to provide preliminary treatment therefor; may prohibit the discharge into the metropolitan disposal system of any substance which it determines will or may be harmful to the system or any persons operating it; and may require any local government unit to discontinue the acquisition, betterment, or operation of any facility for its disposal system wherever and so far as adequate service is or will be provided by the metropolitan disposal system.

History: 1975 c 13 s 82

473.516 WASTE FACILITIES; SEWAGE SLUDGE DISPOSAL.

Subdivision 1. Acquisition and operation. Without limiting the grant or enumeration of any of the powers conferred on the council or commission under sections 473.501 to 473.549, the commission shall have the specific power to acquire by purchase, lease, condemnation, gift or grant any real or personal property including development rights as defined in section 473.833, positive and negative easements and water and air rights, and it may construct, enlarge, improve, replace, repair, maintain and operate waste facilities in the metropolitan area deemed to be necessary or convenient in connection with the processing or disposal of waste resulting from sewage treatment, and the commission may contract for the maintenance and operation of such waste facilities, subject to the bidding requirements of section 473.523. The commission may accept for processing waste derived from outside the metropolitan area in the state, as well as waste derived from within the metropolitan area, and may fix and collect fees and charges for the acceptance of waste as the commission determines to be reasonable.

Subd. 2. General requirements. With respect to its activities under this section, the commission shall be subject to and comply with the applicable provisions of this chapter. Property acquired by the commission under this section shall be subject to the provisions of section 473.545. Any site or facility owned or operated for or by the commission shall conform to the policy plan adopted by the council under section 473.149 and shall be authorized in accordance with the commission's implementation plan approved by the council. The commission shall contract with private persons for the construction, maintenance, and operation of waste facilities, subject to the bidding requirements of section 473.523, where the facilities are adequate and available for use and competitive with other means of providing the same service.

Subd. 3. Local restrictions. Counties and local units of government may impose conditions respecting the construction, operation, inspection, monitoring, and maintenance of a waste facility of the commission and conditions respecting the sale, gift, delivery, storage, use, and disposal of sewage sludge of the commission on private property as a soil conditioner or amendment, but only in the manner and only to the extent authorized and approved by the council and the agency as being consistent with the establishment and use of the commission's waste facilities and the disposal of the commission's sewage sludge on private property in accordance with the council's plan, adopted under section 473.153, and agency permits and rules. Counties may exercise the enforcement powers granted under section 473.811, subdivision 5c, in the manner and to the extent authorized and approved in accordance with this subdivision.

Subd. 4. Technical monitoring; sewage sludge disposal. Each sewage sludge disposal facility of the waste control commission, or site used for the disposal of sewage sludge of the commission, shall be required to have an agency permit issued pursuant to agency rules for permitting sewage sludge disposal facilities and sites. Each permit shall require a regular monitoring and testing program to be carried out by the waste control commission. A regular inspection program shall be conducted by the agency or a county under contract to the agency. The commission shall reimburse the agency quarterly for the cost of the program, and the amounts reimbursed are hereby appropriated to the agency for the purposes of the program. The commission shall attempt to the greatest practical extent to provide a sludge quality that permits desired nutrient loadings and minimizes elements not essential for plant growth when sludge is disposed of on private property as a soil conditioner or amendment. The commission shall provide recipients with information on the facility generating the sludge and the content of the sludge taken from its various treatment facilities.

Subd. 5. Notwithstanding section 473.523, the commission may enter into a negotiated contract with a private person to use the sludge ash generated by the commission in a manufacturing process. The contract may not exceed 30 years.

History: 1976 c 179 s 10; 1980 c 564 art 10 s 5; 1981 c 352 s 39; 1986 c 425 s 38; 1986 c 460 s 42

473.517 ALLOCATION OF CURRENT COSTS.

Subdivision 1. Current costs defined. The estimated costs of operation, maintenance, and debt service of the metropolitan disposal system to be paid by the commission in each fiscal year, and the costs of acquisition and betterment of the system which are to be paid during the year from funds other than bond proceeds, including all expenses incurred by the council pursuant to sections 473.501 to 473.545, are referred to in this section as current costs, and shall be allocated in the budget for that year to the respective local government units in the metropolitan area as provided in subdivisions 2 to 6. The amount budgeted by the commission for any year for a reserve or contingency fund must be treated as a current cost and allocated as a cost of operation and maintenance in accordance with this section. The reserve or contingency fund so established may not exceed an amount equal to 7.5 percent of the commission's operating budget in total.

Subd. 2. Allocation of metropolitan treatment works and interceptor costs; adjusted volume. Except as provided in subdivision 3, the current costs of all treatment works and interceptors in the metropolitan disposal system shall be allocated among and paid by all local government units which will discharge sewage, directly or indirectly, into the metropolitan disposal system during the budget year, in proportion to the total volume estimated to be so discharged by each local government unit, adjusted as follows:

(a) increased or decreased, as the case may be, to the extent the commission determines, on the basis of such historical and reasonably projected data as may be available, that the sewage discharged by one unit will require more or less treatment to produce a suitable effluent than that discharged by others;

(b) decreased by any amount of surface water estimated by the commission to be discharged by a local government unit from a combined storm and sanitary sewer system;

(c) increased by that volume of normal sanitary sewage which is equivalent for treatment purposes to the volume of surface water referred to in clause (b), as determined by the commission from available engineering data; and

(d) increased or decreased, as the case may be, by the amount of any substantial and demonstrable error in a previous estimate.

Subd. 3. Allocation of metropolitan treatment works and interceptor costs; reserved capacity. In preparing each budget the commission shall estimate the current costs of acquisition, betterment, and debt service, only, of the treatment works in the metropolitan disposal system which will not be used to total capacity during the budget year, and the percentage of such capacity which will not be used, and shall deduct the same percentage of such treatment works costs from the current costs allocated under subdivision 2. The commission shall also estimate the current costs of acquisition, betterment, and debt service, only, of the interceptors in the metropolitan disposal system that will not be used to total capacity during the budget year, shall estimate the percentage of the total capacity that will not be used, and shall deduct the same percentage of interceptor costs from the current costs allocated under subdivision 2. The total amount so deducted with respect to all treatment works and interceptors in the system shall be allocated among and paid by the respective local government units in the metropolitan area for which system capacity unused each year is reserved for future use, in proportion to the amounts of such capacity reserved for each of them.

Subd. 4. [Repealed, 1987 c 53 s 8]

Subd. 5. [Repealed, 1987 c 53 s 8]

Subd. 6. Deferment of payments. The council may by resolution provide for the deferment of payment of all or part of the current costs of acquisition, betterment, and debt service of estimated unused capacity which are allocated by the commission to a local government unit in any year pursuant to subdivisions 3 and 4, repayable at such time or times as the council shall specify in the resolution, with interest at the approximate average annual rate borne by council bonds outstanding at the time of the

deferment, as determined by the council. Such costs may be deferred only when the council determines that a substantial portion of the territory of a local government unit has not been connected to the metropolitan disposal system, and that the amount of such costs or some portion thereof is disproportionate to the available economic resources of the unit at the time. Such deferred costs shall be allocated to and paid by all local government units in the metropolitan area which will discharge sewage, directly or indirectly, into the metropolitan disposal system in the budget year for which the deferment is granted, in the same manner and proportions as current costs are allocated under subdivision 5. When such deferred costs are repaid they shall be applied in reduction of the total amount of costs thereafter allocated to each of the local government units to which such deferred costs were allocated in the year of deferment, in proportion to their allocations thereof that year.

Subd. 7. [Repealed, 1987 c 53 s 8]

Subd. 8. **Alternative methods of allocating costs.** When it shall appear that the costs established pursuant to the provisions of subdivisions 1 to 7 shall result in an increased cost to a municipality or service area which is now being serviced by the facilities of the Minneapolis-St. Paul Sanitary District or by the facilities of any other municipality or sewer district is unreasonable or inequitable, the commission is hereby authorized and directed to adopt such other means and methods of allocating costs, as to each of them, as may be fair, reasonable and equitable.

Subd. 9. **Advisory committees.** The commission may establish and appoint persons to advisory committees to assist the commission in the performance of its duties. If established, the advisory committees shall meet with the waste control commission to consult with such members concerning the acquisition, betterment, operation and maintenance of interceptors and treatment works in the metropolitan disposal system, and the allocation of costs therefor. Members of the advisory committee serve without compensation but must be reimbursed for their reasonable expenses as determined by section 15.059.

History: 1975 c 13 s 83; 1987 c 53 s 2-5

473.519 FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972; SYSTEM OF CHARGES.

Each local government unit shall adopt a system of charges for the use and availability of the metropolitan disposal system which will assure that each recipient of waste treatment services within or served by the unit will pay its proportionate share of the current costs allocated to the unit by the commission under section 473.517, as required by the federal Water Pollution Control Act amendments of 1972, and any regulations issued pursuant thereto. Each system of charges shall be adopted as soon as possible and shall be submitted to the commission. The commission shall review each system of charges to determine whether it complies with the federal law and regulations. If it determines that a system of charges does not comply, the adopting unit shall be notified and shall change its system to comply, and shall submit the changes to the commission for review. All subsequent changes in a system of charges proposed by a local government unit shall also be submitted to the commission for review. Each local government unit may appeal the determination of the commission to the council for review and determination.

History: 1975 c 13 s 84

473.521 PAYMENTS TO COMMISSION.

Subdivision 1. **Amounts due commission, when payable.** Charges payable to the commission by local government units may be made payable at such times during each year as the commission determines, but such 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. 2. **Component municipalities, obligations to commission.** Each government

unit shall pay to the commission all sums charged to it as provided in section 473.517, at the times and in the manner determined by the commission. The governing body of each such government unit shall take all action that may be necessary to provide the funds required for such payments and to make the same when due.

Subd. 3. Powers of government units. To accomplish any duty imposed on it by the council or commission, the governing body of every government unit in the metropolitan area may exercise the powers granted any municipality by chapters 117, 412, 429, 475, sections 115.46, 444.075 and 471.59.

Subd. 4. Deficiency tax levies. If the governing body of any local government unit fails to meet any payment to the commission hereunder 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 such amount with interest at six percent per annum. The auditor shall levy and extend such amount 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. Such tax shall be collected in the same manner as the general taxes of the government unit, and the proceeds thereof, when collected, shall be paid by the county treasurer to the treasurer of the commission and credited to the government unit for which the tax was levied.

History: 1975 c 13 s 85

473.523 CONTRACTS FOR CONSTRUCTION MATERIALS, SUPPLIES, AND EQUIPMENT.

Subdivision 1. No contract for any construction work, or for the purchase of materials, supplies, or equipment, costing more than \$15,000 shall be made by the commission without publishing once in a legal newspaper or trade paper published in a city of the first class not less than two weeks before the last day for submission of bids, notice that bids or proposals will be received. Such notice shall state the nature of the work or purchase and the terms and conditions upon which the contract is to be awarded, and a time and place where such bids will be received, opened, and read publicly. After such bids have been duly received, opened, read publicly, and recorded, the commission shall award such contract to the lowest responsible bidder or it may reject all bids and readvertise. Each contract shall be duly executed in writing and the party to whom the contract is awarded shall give sufficient bond or security to the board for the faithful performance of the contract as required by law. The commission shall have the right to set qualifications and specifications and to require bids to meet all such qualifications and specifications before being accepted. If the commission by an affirmative vote of two-thirds of its members declares that an emergency exists requiring the immediate purchase of materials or supplies at a cost in excess of \$15,000 or in making emergency repairs, it shall not be necessary to advertise for bids.

Subd. 2. The administrator may, without prior approval of the commission and without advertising for bids, enter into any contract of the type referred to in subdivision 1 which is not in excess of \$15,000.

Subd. 3. [Repealed, 1986 c 460 s 59]

History: 1975 c 13 s 86; 1986 c 460 s 43,44

473.535 IMPLEMENTATION PLAN; BUDGET.

The waste control commission shall prepare, submit to the council and adopt an implementation plan and a budget at the time and in the manner provided in and otherwise comply with sections 473.161 and 473.163.

History: 1975 c 13 s 87; 1986 c 460 s 45

473.541 DEBT OBLIGATIONS.

Subdivision 1. Certificates of indebtedness. At any time or times after approval of an annual budget, and in anticipation of the collection of tax and other revenues appropriated in the budget, the council may by resolution authorize the issuance,

negotiation, and sale, in such form and manner and upon such terms as it may determine, of general obligation certificates of indebtedness in aggregate principal amounts not exceeding 50 percent of the total amount of such appropriations, and maturing not later than April 1 following the close of the budget year. All receipts of tax and other revenues included in the budget, after the expenditure of appropriated funds, shall be irrevocably appropriated to a special fund to pay the principal of and the interest on the certificates when due. If for some reason the anticipated revenues are insufficient to pay the certificates and interest thereon when due, the council shall levy a tax in the amount of the deficiency on all taxable property in the metropolitan area, and shall appropriate this amount to the special fund, to be credited thereto from the first tax and other revenues received in the following budget year.

Subd. 2. Emergency certificates of indebtedness. If in any budget year the receipts of tax and other revenues should from some unforeseen cause become insufficient to pay the commission's current expenses, or if any calamity or other public emergency should subject it to the necessity of making extraordinary expenditures, the council may make an emergency appropriation of an amount sufficient to meet the deficiency and may authorize the issuance, negotiation, and sale of certificates of indebtedness in this amount in the same manner and upon the same conditions as provided in subdivision 1, except that the council shall forthwith levy on all taxable property in the metropolitan area a tax sufficient to pay the certificates and interest thereon, and shall appropriate all collections of such tax to a special fund created for that purpose. The certificates may mature not later than April in the year following the year in which the tax is collectible.

Subd. 3. General obligation bonds. The council may by resolution authorize the issuance of general obligation bonds for the acquisition or betterment of any interceptors or treatment works determined to be necessary or desirable for the metropolitan disposal system, or for the refunding of outstanding bonds, certificates of indebtedness, or judgments. The council shall provide for the issuance and sale and for the security of such 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 no election shall be required and the net debt limitations in chapter 475 shall not apply to such bonds. The council may also pledge for the payment of such bonds any revenues receivable under section 473.517.

History: 1975 c 13 s 88

473.542 DEPOSITORIES.

The commission shall from time to time designate one or more national or state banks, or trust companies authorized to do a banking business, as official depositories for moneys of the commission, and thereupon shall require the treasurer to deposit all or a part of such moneys in such institutions. Such 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 so designated shall qualify as a depository by furnishing a corporate surety bond or collateral in the amounts required by section 118.01. However, no bond or collateral shall be required to secure any deposit insofar as it is insured under federal law.

History: 1975 c 13 s 89; 1986 c 444

473.543 MONEYS, ACCOUNTS AND INVESTMENTS.

Subdivision 1. All moneys received by the commission shall be deposited or invested by the treasurer and disposed of as the commission may direct in accordance with its budget; provided that any moneys that have been pledged or dedicated by the metropolitan council to the payment of obligations or interest thereon or expenses incident thereto, or for any other specific purpose authorized by law, shall be paid by the treasurer into the fund to which they have been pledged.

Subd. 2. The commission's treasurer shall establish such funds and accounts as may be necessary or convenient to handle the receipts and disbursements of the commission in an orderly fashion.

Subd. 3. The moneys on hand in said funds and accounts may be deposited in the official depositories of the commission or invested as hereinafter provided. The amount thereof 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. Such moneys may also be held under certificates of deposit issued by any official depository of the commission.

Subd. 4. The use of proceeds of all bonds issued by the council for the acquisition and betterment of interceptors or treatment works, and the use, other than investment, of all moneys on hand in any sinking fund or funds of the council, shall be governed by the provisions of chapter 475, and the provisions of resolutions authorizing the issuance of such bonds. Such bond proceeds when received shall be transferred to the treasurer of the commission for safekeeping, investment and payment of capital costs.

Subd. 5. The state auditor shall audit the books and accounts of the commission at least once each year. The commission shall pay to the state the total cost and expenses of such examination, including the salaries paid to the examiners while actually engaged in making such examination. The revolving fund of the state auditor shall be credited with all collections made for any such examination. The council may also require the commission to have an independent audit made by a certified public accountant to be paid for by the commission, and may examine the commission's books and accounts at any time.

History: 1975 c 13 s 90

473.545 PROPERTY EXEMPT FROM TAXATION.

Any properties, real or personal, owned, leased, controlled, used, or occupied by the waste control commission for any purpose referred to in section 473.502 are declared to be acquired, owned, leased, controlled, used and occupied for public, governmental, and municipal purposes, and shall be exempt from taxation by the state or any political subdivision of the state, provided that such properties shall be subject to special assessments levied by a political subdivision for a local improvement in amounts proportionate to and not exceeding the special benefit received by the properties from such improvement. No possible use of any such properties in any manner different from their use as part of the metropolitan disposal system at the time shall be considered in determining the special benefit received by such properties. All such assessments shall be subject to final confirmation by the metropolitan council, whose determination of the benefits shall be conclusive upon the political subdivision levying the assessment.

History: 1975 c 13 s 91; 1983 c 213 s 23

473.547 TAX LEVIES.

The council shall have power to levy taxes for debt service of the metropolitan disposal system upon all taxable property within the metropolitan area, without limitation of rate or amount and without affecting the amount or rate of taxes which may be levied by the council for other purposes or by any local government unit in the area. The council shall also have power to levy taxes as provided in section 473.521. Each of the county auditors shall annually assess and extend upon the tax rolls in the auditor's county the portion of the taxes levied by the council in each year which is certified to the auditor by the council. Each county treasurer shall collect and make settlement of such taxes with the treasurer of the commission in the same manner as with other political subdivisions.

History: 1975 c 13 s 92; 1986 c 444

473.549 RELATION TO EXISTING LAWS.

The provisions of sections 473.501 to 473.549 shall be given full effect notwithstanding the provisions of any law not consistent therewith. The powers conferred on the council and the commission under sections 473.501 to 473.545 shall in no way diminish or supersede the powers conferred on the pollution control agency by chapters 115 and 116.

History: 1975 c 13 s 93

METROPOLITAN SPORTS FACILITIES**473.551 DEFINITIONS.**

Subdivision 1. For the purposes of sections 473.551 to 473.595, the following terms shall have the meanings given in this section.

Subd. 2. "Cities" means the cities of Minneapolis, Bloomington, and Richfield.

Subd. 3. "Commission" means the metropolitan sports facilities commission.

Subd. 4. "Debt service" means the principal and interest due each year on all bonds or revenue anticipation certificates issued by the council under section 473.581 or assumed by the council or for which the council is obligated under section 473.564.

Subd. 5. "Metropolitan sports area" means the real estate in the city of Bloomington described in the ownership and operations agreement, and all buildings, structures, improvements and equipment thereon, now owned by the cities.

Subd. 6. "Metropolitan sports area commission" means that commission established by an ownership and operations agreement made and entered into as of August 13, 1954, validated by Laws 1955, Chapter 445, to which the cities are now parties.

Subd. 7. "Multipurpose sports facility" means a single unit sports facility suitable for university or major league professional baseball, football, and soccer.

Subd. 8. "Sports facility" or "sports facilities" means real or personal property comprising a stadium or stadiums suitable for university or major league professional baseball or for university or major league professional football and soccer, or for both, together with adjacent parking facilities.

History: 1977 c 89 s 1

473.552 LEGISLATIVE POLICY; PURPOSE.

The legislature finds that the population in the metropolitan area has a need for sports facilities and that this need cannot be met adequately by the activities of individual municipalities, by agreements among municipalities, or by the private efforts of the people in the metropolitan area. It is therefore necessary for the public health, safety and general welfare to establish a procedure for the acquisition and betterment of sports facilities and to create a metropolitan sports facilities commission.

History: 1977 c 89 s 2

473.553 COMMISSION; MEMBERSHIP; ADMINISTRATION.

Subdivision 1. **General.** The metropolitan sports facilities commission is established and shall be organized, structured, and administered as provided in this section and section 473.141, subdivisions 6 to 11, 13, and 14.

Subd. 2. **Membership.** The commission shall consist of six members, appointed by the governor during the period before substantial completion of construction of sports facilities pursuant to sections 473.551 to 473.595 and thereafter as hereinafter provided, plus a chair appointed as provided in subdivision 3. Initial appointments of members shall be made within 30 days of May 17, 1977. One member shall be appointed from each of the following combinations of metropolitan commission precincts defined in section 473.141, subdivision 2: A and B; C and G; D and E; F and H. Two members shall be appointed from outside the metropolitan area. Upon substantial completion of construction of the sports facility, vacancies occurring on the

commission, whether at the completion of or prior to the completion of a member's term, shall be filled by the city council of the city in which the stadium is located.

Subd. 3. Chair. The chair shall be appointed by the governor as the seventh voting member and shall meet all of the qualifications of a member, except the chair need only reside outside the metropolitan area. The chair shall preside at all meetings of the commission, if present, and shall perform all other duties and functions assigned by the commission or by law. The commission may appoint from among its members a vice-chair to act for the chair during temporary absence or disability.

Subd. 4. Qualifications. Each member appointed prior to substantial completion of construction of a sports facility constructed pursuant to sections 473.551 to 473.595 shall be a resident of the precincts or area of the state for which appointed. A member appointed at any time shall not during a term of office hold the office of metropolitan council member or be a member of another metropolitan agency that is subject to section 473.141 or hold any judicial office or office of state government. Each member shall qualify by taking and subscribing the oath of office prescribed by the Minnesota Constitution, article V, section 6. The oath, duly certified by the official administering it, shall be filed with the chair of the metropolitan council.

Subd. 4a. Additional qualification. None of the members appointed by the city council of the city in which the stadium is located shall be an elected public official of that city or of another political subdivision any part of whose territory is shared with that city.

Subd. 5. Terms. The terms of the members representing precincts A and B and C and G and the term of one of the members from outside the metropolitan area shall end the first Monday in January, 1981. The terms of the other members and the chair shall end the first Monday in January, 1983. After the initial term provided for in this subdivision, the term of each member and the chair shall be four years. The terms shall continue until a successor is appointed and qualified. Members and the chair may be removed in the manner specified in chapter 351.

History: 1977 c 89 s 3; 1979 c 203 s 2,3; 1982 c 625 s 15; 1986 c 444; 1986 c 460 s 46

473.556 POWERS OF COMMISSION.

Subdivision 1. General. The commission shall have all powers necessary or convenient to discharge the duties imposed by law, including but not limited to those specified in this section.

Subd. 2. Actions. The commission may sue and be sued, and shall be a public body within the meaning of chapter 562.

Subd. 3. Acquisition of property. The commission may acquire by lease, purchase, gift, or devise all necessary right, title, and interest in and to real or personal property deemed necessary to the purposes contemplated by sections 473.551 to 473.595 within the limits of the metropolitan area.

Subd. 4. Exemption of property. Any real or personal property acquired, owned, leased, controlled, used, or occupied by the commission for any of the purposes of sections 473.551 to 473.595 is declared to be acquired, owned, leased, controlled, used and occupied for public, governmental, and municipal purposes, and shall be exempt from ad valorem taxation by the state or any political subdivision of the state, provided that such properties shall be subject to special assessments levied by a political subdivision for a local improvement in amounts proportionate to and not exceeding the special benefit received by the properties from the improvement. No possible use of any such properties in any manner different from their use under sections 473.551 to 473.595 at the time shall be considered in determining the special benefit received by the properties. All assessments shall be subject to final confirmation by the council, whose determination of the benefits shall be conclusive upon the political subdivision levying the assessment. Notwithstanding the provisions of section 272.01, subdivision 2, or 273.19, real or personal property leased by the commission to another person for uses

related to the purposes of sections 473.551 to 473.595, including the operation of the metropolitan sports area, but not including property sold or leased for development pursuant to subdivision 6, shall be exempt from taxation regardless of the length of the lease. The provisions of this subdivision, insofar as they require exemption or special treatment, shall not apply to any real property at the metropolitan sports area which is leased by the commission for development pursuant to subdivision 6.

Subd. 5. Facility operation. The commission may equip, improve, operate, manage, maintain, and control the metropolitan sports area and sports facilities constructed or remodeled under the provisions of sections 473.551 to 473.595.

Subd. 6. Disposition of property. (a) The commission may sell or otherwise dispose of any real or personal property acquired by it which is no longer required for accomplishment of its purposes. The property shall be sold in the manner provided by section 469.065, insofar as practical and consistent with sections 473.551 to 473.595.

(b) Real property at the metropolitan sports area (not including the indoor public assembly facility and adjacent parking facilities) which is no longer needed for sports facilities may be sold or leased for residential, commercial, or industrial development in accordance with the procedures in section 469.065 within two years to a private, for-profit entity, and thereafter the property shall be subject to all applicable taxes and assessments and all government laws, rules and ordinances bearing on use and development as if the property were privately owned.

(c) Any real property right, title, or interest within the provisions of paragraph (b) owned by the commission may be sold or leased in whole or in part to the port authority of the city of Bloomington to further the general plan of port improvement or industrial development or for any other purpose which the authority considers to be in the best interests of the district and its people. The property shall be sold or leased to the authority in accordance with section 469.065, subdivisions 1 to 4. Section 469.065, subdivisions 5 to 7, shall not apply to a sale under this paragraph.

(d) Real property disposed of under clause (c) shall be subject to leases, agreements, or other written interests in force on June 1, 1983.

(e) The proceeds from the sale of any real property at the metropolitan sports area shall be paid to the council and used for debt service or retirement.

Subd. 7. Contracts. The commission may contract for materials, supplies, and equipment in accordance with section 471.345, except that the commission may employ persons, firms, or corporations to perform one or more or all of the functions of architect, engineer, construction manager, or contractor for both design and construction, with respect to all or any part of a project to build or remodel sports facilities. Contractors shall be selected through the process of public bidding, provided that it shall be permissible for the commission to narrow the listing of eligible bidders to those which the commission determines to possess sufficient expertise to perform the intended functions. Any construction manager or contractor shall certify, before the contracts are finally signed, a construction price and completion date to the commission and shall post a bond in an amount at least equal to 100 percent of the certified price, to cover any costs which may be incurred over and above the certified price, including but not limited to costs incurred by the commission or loss of revenues resulting from incomplete construction on the completion date. The commission shall secure surety bonds as required in section 574.26, securing payment of just claims in connection with all public work undertaken by it. Persons entitled to the protection of the bonds may enforce them as provided in sections 574.28 to 574.32, and shall not be entitled to a lien on any property of the commission under the provisions of sections 514.01 to 514.16.

Subd. 8. Employees; contracts for services. The commission may employ persons and contract for services necessary to carry out its functions. The commission may employ on such terms as it deems advisable persons or firms for the purpose of providing traffic officers to direct traffic on property under the control of the commission and on the city streets in the general area of the property controlled by the commission. The traffic officers shall not be peace officers and shall not have authority to make arrests for violations of traffic rules.

Subd. 9. Gifts and grants. The commission may accept gifts of money, property, or services, may apply for and accept grants or loans of money or other property from the United States, the state, any subdivision of the state, or any person for any of its purposes, may enter into any agreement required in connection therewith, and may hold, use, and dispose of such money, property, or services in accordance with the terms of the gift, grant, loan or agreement relating thereto. Except for the acquisition, clearance, relocation, and legal costs referred to in section 473.581, subdivision 3, clauses (d) and (e), the commission shall not accept gifts, grants, or loans valued in excess of \$2,000,000 without the prior approval of the council. In evaluating proposed gifts, grants, loans, and agreements required in connection therewith, the council shall examine the possible short-range and long-range impact on commission revenues and commission operating expenditures.

Subd. 10. Research. The commission may conduct research studies and programs, collect and analyze data, prepare reports, maps, charts, and tables, and conduct all necessary hearings and investigations in connection with its functions.

Subd. 11. Agreements with university. The commission and the board of regents of the university of Minnesota may enter into agreements and do all other acts necessary to further the functions prescribed in sections 473.551 to 473.595.

Subd. 12. Use agreements. The commission may lease, license, or enter into agreements and may fix, alter, charge, and collect rentals, fees, and charges to all persons for the use, occupation, and availability of part or all of any premises, property, or facilities under its ownership, operation, or control for purposes that will provide athletic, educational, cultural, commercial or other entertainment, instruction, or activity for the citizens of the metropolitan area. Any such use agreement may provide that the other contracting party shall have exclusive use of the premises at the times agreed upon.

Subd. 13. Insurance. The commission may require any employee to obtain and file with it an individual bond or fidelity insurance policy. It may procure insurance in the amounts it deems necessary against liability of the commission 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. 14. Small business contracts. In exercising its powers to contract for the purchase of services, materials, supplies, and equipment, pursuant to subdivisions 5, 7, 8 and 10, the commission shall designate and set aside each fiscal year for awarding to small businesses approximately ten percent of the value of anticipated contracts and subcontracts of that kind for that year, in the manner required of the commissioner of administration for state procurement contracts pursuant to sections 16B.19 to 16B.22. The commission shall follow the rules promulgated by the commissioner of administration pursuant to section 16B.22, and shall submit reports of the kinds required of the commissioners of administration and economic development by section 16B.21.

Subd. 15. MS 1980 [Repealed, 1981 c 356 s 377]

History: 1977 c 89 s 4; 1979 c 203 s 4-6; 1983 c 257 s 2; 1984 c 544 s 89; 1985 c 248 s 70; 1985 c 295 s 2; 1Sp1985 c 14 art 20 s 17; 1987 c 291 s 230; 1987 c 384 art 2 s 1

473.561 EXEMPTION FROM COUNCIL REVIEW.

The acquisition and betterment of sports facilities by the commission shall be conducted pursuant to sections 473.551 to 473.595 and shall not be affected by the provisions of sections 473.161, 473.165, and 473.173.

History: 1977 c 89 s 5

473.564 METROPOLITAN SPORTS AREA.

Subdivision 1. Transfer of ownership. Thirty days after May 17, 1977, or at such later date as the council and the commission determine is advisable and consistent with the purposes of sections 473.551 to 473.595, the ownership of the metropolitan sports

area shall be transferred to the commission. The cities and the metropolitan sports area commission shall cause all conveyances and other instruments to be executed, delivered, and recorded on their behalf which the commission, upon advice of counsel, deems necessary or desirable to transfer and convey to it all of the cities' right, title, and interest in and to the metropolitan sports area and all parts thereof and appurtenances thereto. The comptroller-treasurer of the city of Minneapolis shall remit, endorse, assign and transfer to the treasurer or secretary-treasurer of the commission all moneys and securities credited to the metropolitan sports area fund on the city's official books and records under the provisions of the ownership and operations agreement, except the metropolitan sports area bond sinking fund.

Subd. 2. Assumption of obligations. Upon transfer of ownership of the metropolitan sports area to the commission, the council shall be and become obligated and shall provide for the payment of the principal and interest thereafter due and payable with respect to the general obligation bonds and revenue bonds issued by the city of Minneapolis under the provisions of the ownership and operations agreement among the cities and amendments thereto. The council shall provide to Minneapolis funds sufficient to meet the payments and to maintain the sinking fund pursuant to the agreement. When the balance in the sinking fund is sufficient to pay all remaining bonds and interest to their maturity dates, or to an earlier date on which they have been called for redemption, the obligation of the council shall be discharged. When the principal and interest on the bonds have been paid in full, any balance remaining in the sinking fund, including interest earnings, shall be remitted to the council and used by the council for debt service. Upon transfer of ownership of the metropolitan sports area to the commission, the commission shall assume all of the cities' obligations and those of the metropolitan sports area commission under the provision of all use agreements now in effect, entered into by the metropolitan sports area commission on behalf of the cities, providing for the use of the metropolitan sports area or any part thereof by any person. The cities and the metropolitan sports area commission shall cause to be executed all assignments and other documents as the commission, upon advice of counsel, shall deem necessary or desirable and appropriate to vest all their rights and privileges under the agreements in the commission. Nothing herein shall be construed as imposing upon the council or commission an obligation to compensate the cities or the metropolitan sports area commission for all or any part of the metropolitan sports area or to continue to operate and maintain the metropolitan sports area facilities taken over by the commission.

Subd. 3. Employees. Upon transfer of ownership all persons then employed by the metropolitan sports area commission shall be transferred to the metropolitan sports facilities commission without loss of right or privilege. Nothing in this section shall be construed to give any such person the right or privilege to continue in the same level or classification of employment previously held. The metropolitan sports facilities commission may assign any such person to an employment level and classification which it deems appropriate and desirable in accordance with its personnel code.

History: 1977 c 89 s 6

473.565 RETIREMENT; ADMINISTRATION; PURCHASES OF PRIOR SERVICE CREDIT.

Subdivision 1. All employees of the commission shall be members of the Minnesota state retirement system with respect to service rendered on or after May 17, 1977, except as provided in this section.

Subd. 2. Temporary employees hired for a period of less than six months and part time employees hired to work less than 30 hours per week shall be excluded from membership in the retirement system if the commission certifies them to the executive director of the retirement system as being temporary or part time employees.

Subd. 3. Any employee of the commission who was an employee of the metropolitan sports area commission on May 17, 1977 and who was a member of the public employees retirement association on account of that employment may elect no later

than 30 days following transfer of employment to the commission to remain a member of the public employees retirement association. The election shall be made on forms provided by the commission, and the commission shall give immediate notice of any such elections to the executive directors of the public employees retirement association and the Minnesota state retirement system. Any person who makes such an election shall be excluded from membership in the Minnesota state retirement system with respect to employment by the commission. The commission shall make the required employer contributions to the public employees retirement association.

Subd. 4. Any permanent full time employee of the commission who was a permanent full time employee of the metropolitan sports area commission on May 17, 1977, for whom the prior employment was not covered by the public employees retirement association, may obtain allowable service credit in the Minnesota state retirement system by paying to the retirement system (a) an amount equal to four percent of current salary rate multiplied by the days and months of such prior service for which the employee desires to obtain allowable service credit plus (b) a matching amount representing the employer's required contributions, except that the commission may agree to pay the matching amount on behalf of its employees. Proof of prior permanent full time service and the duration thereof shall be established by the certification of the commission to the executive director of the retirement system. The payments shall be made either in a lump sum or by payroll deduction arranged for on or before July 1, 1978.

History: 1977 c 89 s 7; 1986 c 444

473.568 [Repealed, 1984 c 607 s 2]

473.571 LOCATION AND DESIGN SELECTION.

Subdivision 1. **Commission responsibility.** The commission shall determine the location and design specifications for new or remodeled sports facilities in the metropolitan area.

Subd. 2. [Repealed, 1981 c 356 s 247]

Subd. 3. [Repealed, 1981 c 356 s 247]

Subd. 4. [Repealed, 1981 c 356 s 247]

Subd. 5. **Permits.** Within 60 days following the acceptance of the environmental impact statements by the environmental quality board, the pollution control agency and any other department, agency, or unit of government shall take final action to approve or deny any permits necessary for the sports facilities and locations under consideration.

Subd. 6. **Commission proposal.** On December 1, 1978, following the acceptance of the environmental impact statements by the environmental quality board, the commission shall make a final determination on design and location and shall submit to the metropolitan council a proposal to bond for and construct or remodel the sports facility or facilities. The commission's proposal shall contain all information deemed appropriate or necessary by the council to its determinations pursuant to section 473.581. The commission, in preparing the proposal for the council, may require of the potential lessee professional teams any and all relevant corporate financial data, including, but not limited to, profit and loss statements, annual audit statements, and balance sheets. The commission may keep the corporate financial data confidential except for members of the commission, the council, and designated staff. In evaluating the alternatives, the commission shall consider, among other factors, (a) access to the locations from the rest of the metropolitan area and the state, (b) access to parking and public transit, (c) environmental impact, (d) total capital and operating costs to the commission and total commission revenues over the expected life of the facility, including the sale of land by the commission and any contributions by local units of government or other organizations, (e) the report of the council, (f) the availability of land and utilities, (g) the total governmental costs associated with the construction and

operation of the commission's facilities, including the cost to all units and agencies of government as well as the cost to the commission, (h) the net gain or loss of property taxes to all local governmental units, (i) the feasibility of funding a portion of the total cost through a grant or grants from the economic development administration of the federal government, (j) the feasibility of constructing a waste facility or a solar energy system to provide energy for heating and ventilating the sports facility, and (k) the needs of the university of Minnesota for athletic facilities for a prospective 20 year period. Before submitting its proposal to the metropolitan council the commission shall hold hearings at locations both within and without the metropolitan area after appropriate notice to receive public testimony on location and design.

History: 1977 c 89 s 9

473.572 REVISED FINAL DETERMINATION.

Subdivision 1. Notwithstanding any final determination reached by the commission on or before December 1, 1978, pursuant to section 473.571, subdivision 6, the commission shall make a revised determination on a sports facility or sports facilities which facility or facilities (1) may be covered, (2) may include use of the existing or a remodeled metropolitan stadium for baseball, and (3) shall be located in Hennepin county. The decision shall be made within 30 days after May 26, 1979. In making its decision the commission may rely on data previously submitted and reviewed pursuant to section 473.571 and need not require new data even if modifications are made in an alternative previously considered. The commission shall give full consideration to the needs of the University of Minnesota when making its revised determination.

Subd. 2. Except as provided in this section, the council shall make all determinations required by section 473.581, subdivision 3, before it authorizes the issuance of bonds.

Subd. 3. It is the intent of the legislature that the commission shall, to the maximum extent possible consistent with the provisions of section 473.581, subdivision 3, impose rates, rentals and other charges in the operation of the sports facility which will make the sports facility self supporting so that the taxes imposed under section 473.592 will be at the lowest possible rate consistent with the obligations of the political subdivision levying those taxes as provided in sections 473.551 to 473.595.

History: 1979 c 203 s 1

473.581 DEBT OBLIGATIONS.

Subdivision 1. **Bonds.** The council may by resolution authorize the sale and issuance of its bonds for any or all of the following purposes:

(a) To provide funds for the acquisition or betterment of sports facilities by the commission pursuant to sections 473.551 to 473.595;

(b) To refund bonds issued hereunder and bonds upon which the council is obligated under section 473.564; and

(c) To fund judgments entered by any court against the commission or against the council in matters relating to the commission's functions.

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 473.551 to 473.595, and the council shall have the same powers and duties as a municipality and its governing body in issuing bonds under that chapter. The bonds may be sold at any price and at public or private sale as determined by the council. They shall be payable solely from tax and other revenues referred to in sections 473.551 to 473.595, shall not be a general obligation or debt of the council or of the commission, and shall not be included in the net debt of any city, county, or other subdivision of the state for the purpose of any net debt limitation, provided that nothing herein shall affect the obligation of any political subdivision to levy a tax pursuant to an agreement made under the provisions of section 473.592. No election shall be required. The principal amount shall not be limited except as provided in subdivision 3.

Subd. 3. Limitations. The principal amount of the bonds issued pursuant to subdivision 1, clause (a), shall not exceed the amounts hereinafter authorized. If the commission's proposal and the construction contracts referred to in clause (g) of this subdivision provide for the construction of a covered multipurpose sports facility, the total cost of constructing the facility under the construction contracts, not including costs paid from funds provided by others, and the principal amount of bonds issued pursuant to subdivision 1, clause (a), shall be limited to \$55,000,000. If the commission's proposal and the construction contracts do not provide for the construction of a cover on a proposed multipurpose sports facility and the commission does not otherwise contract for the construction or acquisition of a cover for the sports facility, the principal amount shall be limited to \$42,000,000. If the commission's proposal and the construction contracts provide for the construction of a new sports facility for football and soccer and for remodeling the existing metropolitan stadium for baseball, the principal amount shall be limited to \$37,500,000. If the commission's proposal and the construction contracts provide for the reconstruction and remodeling of the existing metropolitan stadium as an uncovered multipurpose sports facility, the principal amount shall be limited to \$25,000,000. The bonds issued pursuant to subdivision 1, clause (a), shall bear an average annual rate of interest, including discount, not in excess of 7-1/2 percent. The proceeds of the bonds issued pursuant to subdivision 1, clause (a), shall be used only for the acquisition and betterment of sports facilities suitable for baseball, football and soccer, with a seating capacity for football and soccer of approximately 65,000 persons. The council shall issue its bonds and construction of sports facilities may commence when the council has made the following determinations:

(a) The commission has executed agreements with major league professional baseball and football organizations to use its sports facilities for all scheduled regular season home games and play-off home games and, in the case of the football organization, for at least one-half of its exhibition games played each season. The agreements shall be for a period of not more than 30 years nor less than the term of the longest term bonds that in the council's judgment it may find it necessary to issue to finance the acquisition and betterment of the commission's sports facilities. The agreements may contain provisions negotiated between the organizations and the commission which provide for termination upon conditions related and limited to the bankruptcy, insolvency, or financial capability of the organization. The agreements shall provide that, in the event of breach of the agreements, the defaulting organization shall pay damages annually to the commission. The annual payment shall be in an amount equal to the annual average of all revenue derived by the commission from attendance at events and activities of the defaulting organization during the years prior to default, provided that the damages shall not exceed in any year an amount sufficient, with other revenues of the commission but excluding proceeds of the taxes under section 473.592, to pay all expenses of operation, maintenance, administration, and debt service for the facilities used by the defaulting organization during the same year. The damages shall be payable during the period from the occurrence of the default to the date on which another major league professional baseball or football organization, replacing the defaulting organization, enters into a use agreement with the commission for not less than the then remaining term of the original agreement. The agreements with the teams shall provide that no closed circuit or pay television broadcasting of events in the sports facility may be allowed without the approval of the commission. The agreements shall include provisions protecting the commission and the council in the event of change in ownership of the professional teams.

(b) The commission has executed agreements with professional baseball and football major leagues which guarantee the continuance of franchises in the metropolitan area for the period of the agreements referred to in clause (a).

(c) The proceeds of bonds provided for in this subdivision will be sufficient, together with other capital funds that may be available to the commission, to construct or remodel and to furnish the sports facilities proposed by the commission, including the appropriate professional fees and charges but excluding, except as otherwise provided in this subdivision, the acquisition, clearance, relocation, and legal costs referred to in clauses (d) and (e).

(d) The commission has acquired, without cost to the commission or the council except as provided in this subdivision, title to all real property including all easements and other appurtenances needed for the construction and operation of any proposed sports facilities or has received a grant of funds or has entered into an agreement or agreements sufficient in the judgment of the council to assure the receipt of funds, at the time and in the amount required, to make any payment upon which the commission's acquisition of title and possession of the real property is conditioned.

(e) The commission has received a grant of funds or entered into an agreement or agreements sufficient in the judgment of the council to assure the receipt of funds, at the time and in the amount required, to pay all costs, except as provided in this subdivision, of clearing the real property needed for the construction and operation of any proposed sports facilities of all buildings, railroad tracks and other structures, including without limitation all relocation costs, all utility relocation costs, and all legal costs.

(f) The commission has executed agreements with appropriate labor organizations and construction contractors which provide that no labor strike or management lockout will halt, delay or impede construction.

(g) The commission has executed agreements which will provide for the construction of its sports facilities for a certified construction price and completion date and which include performance bonds in an amount at least equal to 100 percent of the certified price to cover any costs which may be incurred over and above the certified price, including but not limited to costs incurred by the commission or loss of revenues resulting from incomplete construction on the completion date.

(h) The environmental impact statement for the sports facility or facilities has been accepted by the environmental quality board, and the pollution control agency and any other department, agency, or unit of government have taken the actions necessary to permit the construction of the sports facility or facilities.

(i) At least 50 percent of the private boxes provided for in the commission's proposal for the sports facility or facilities are sold or leased for at least five years.

(j) The anticipated revenue from the operation of the sports facility or facilities plus any additional available revenue of the commission and the revenue from the taxes under section 473.592 will be an amount sufficient to pay when due all debt service plus all administration, operating and maintenance expense.

(k) The commission has studied and considered the needs of the University of Minnesota for athletic facilities for a prospective 20 year period.

(l) The municipality where the facility is to be constructed has entered into an agreement as contemplated in section 473.592.

(m) The commission has entered into an agreement or agreements with a purchaser or purchasers of tickets of admission for a period of not less than 20 years which will assure that whenever more than 90 and less than 100 percent of the tickets of admission for seats at any professional football game, which were available for purchase by the general public 120 hours or more before the scheduled beginning time of the game either at the sports facility where the game is to be played or at the box office closest to the sports facility, have been purchased 72 hours or more before the beginning time of the game, then all of such tickets which remain unsold will be purchased in sufficient time to permit the telecast to areas within the state which otherwise would not receive the telecast because of the terms of an agreement in which the professional football league has sold or otherwise transferred all or part of the rights of the league's member organizations in the sponsored telecasting of games of the organizations. The party or parties agreeing to the purchase of such unsold tickets shall be obligated for a period of at least 20 years in an amount determined by the council to be sufficient to assure the purchase of all such unsold tickets.

(n) The council has entered into an agreement with the brokerage firm or brokerage firms to be used in connection with the issuance and sale of the bonds guaranteeing that fees and charges payable to the brokerage firm or firms in connection therewith,

including any underwriting discounts, shall not exceed fees and charges customarily payable in connection with the issuance and sale of bonds secured by the pledge of the full faith and credit of the municipality in which any new sports facility is to be located.

The validity of any bonds issued under subdivision 1, clause (a), and the obligations of the council and commission related thereto, shall not be conditioned upon or impaired by the council's determinations made pursuant to this subdivision. For purposes of issuing the bonds the determinations made by the council shall be deemed conclusive, and the council shall be and remain obligated for the security and payment of the bonds irrespective of determinations which may be erroneous, inaccurate, or otherwise mistaken.

Subd. 4. Security. To the extent and in the manner provided in sections 473.592 and 473.595, the taxes described in section 473.592, the tax and other revenues of the commission described in section 473.595, and any other revenues of the commission shall be and remain pledged and appropriated for the payment of all necessary and reasonable expenses of the operation, administration, maintenance, and debt service of the commission's sports facilities until all bonds referred to in section 473.564, subdivision 2, and all bonds and certificates issued pursuant to this section are fully paid or discharged in accordance with law. The revenue bonds and interest thereon referred to in section 473.564, subdivision 2, may be refunded, whether at a lower or a higher rate of interest, by the issuance of new bonds pursuant to subdivision 1, clause (b), for the purpose of pledging revenues of the metropolitan sports area for the payment and security of bonds issued hereunder, and the council may provide that a portion of the new bonds shall be payable solely from the interest earnings derived from the investment of the bond proceeds. Until these revenue bonds are fully paid or the council's obligation thereon is discharged in accordance with law they shall be deemed a first and prior charge on those revenues and shall be secured by all provisions of the revenue bond resolution and the ownership and operations agreement. Bonds issued pursuant to this section and bonds referred to in section 473.564, subdivision 2, may be secured by a bond resolution, or by a trust indenture entered into by the council with a corporate trustee within or outside the state, which shall define the tax and other revenues pledged for the payment and security of the bonds. The pledge shall be a valid charge on the tax and other revenues referred to in sections 473.551 to 473.595 from the date when bonds are first issued or secured under the resolution or indenture and shall secure the payment of principal and interest and redemption premiums when due and the maintenance at all times of a reserve securing such payments. No mortgage 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 all tax and other revenues received and accounts receivable by the commission or council hereunder, as against the claims of all other persons in tort, contract, or otherwise, irrespective of whether such parties have notice thereof, and without possession or filing as provided in the uniform commercial code or any other law. In the bond resolution or trust indenture the council may make such covenants, which shall be binding upon the commission, as are determined to be usual and reasonably necessary for the protection of the bondholders. No pledge, mortgage, covenant, or agreement securing bonds may be impaired, revoked, or amended by law or by action of the council, commission, or city, except in accordance with the terms of the resolution or indenture under which the bonds are issued, until the obligations of the council thereunder are fully discharged.

Subd. 5. Revenue anticipation certificates. At any time or times after approval by the council and final adoption by the commission of an annual budget of the commission for operation, administration, and maintenance of its sports facilities, and in anticipation of the proceeds from the taxes under section 473.592 and the revenues of the commission provided for in the budget, but subject to any limitation or prohibition in a bond resolution or indenture, the council may authorize the issuance, negotiation, and sale, in such form and manner and upon such terms as it may determine, of revenue anticipation certificates. The principal amount of the certificates outstanding shall at no time exceed 25 percent of the total amount of the tax and other revenues

anticipated. The certificates shall mature not later than three months after the close of the budget year. Prior to the approval and final adoption of the first annual budget of the commission, the council may authorize up to \$300,000 in revenue anticipation certificates under this subdivision. So much of the anticipated tax and other revenues as may be needed for the payment of the certificates and interest thereon shall be paid into a special debt service fund established for the certificates in the council's financial records. If for any reason the anticipated tax and other revenues are insufficient, the certificates and interest shall be paid from the first tax and other revenues received, subject to any limitation or prohibition in a bond resolution or indenture. The proceeds of the certificates may be used for any purpose for which the anticipated revenues or taxes may be used or for any purpose for which bond proceeds under subdivision 1 may be used, provided that the proceeds of certificates issued after May 26, 1979, shall not be used to pay capital costs of sports facilities constructed or remodeled pursuant to sections 473.551 to 473.595.

History: 1977 c 89 s 10; 1979 c 26 s 1; 1979 c 203 s 7-10; 1984 c 607 s 1

473.591 [Repealed, 1979 c 26 s 3]

473.592 TAX REVENUES.

Subdivision 1. Local sales tax. Upon designation of a location for a sports facility pursuant to section 473.572, the municipality in which the facility is to be located may enter into an agreement with the metropolitan council and the commission which requires the municipality to impose a sales tax, supplemental to the general sales tax imposed in chapter 297A, for the purposes and in accordance with the requirements specified in sections 473.551 to 473.595. The tax may be imposed on the gross receipts from all retail on-sales of intoxicating liquor and fermented malt beverages when sold at licensed on-sale liquor establishments and municipal liquor stores located within the municipality, or on the gross receipts from the furnishing for consideration of lodging for a period of less than 30 days at a hotel, motel, rooming house, tourist court, or trailer camp located within the municipality, or on both. The agreement between the municipality, the metropolitan council, and the commission shall require the municipality to impose the tax or taxes at whatever rate or rates may be necessary to produce revenues which are determined by the council from year to year to be required, together with the revenues available to the commission, to pay when due all debt service on bonds and revenue anticipation certificates issued under section 473.581, all debt service on bonds referred to in section 473.564, subdivision 2, and all expenses of operation, administration, and maintenance of the sports facilities. The agreement shall provide for the suspension, reimposition, reduction, or increase in tax collections upon determination by the metropolitan council that such actions are appropriate or necessary for the purposes for which the tax is imposed, provided that the balance in the debt service fund or funds, including any reserve for debt service, shall be maintained at least at an amount sufficient to pay the principal and interest on bonds which will become due within the next succeeding one year period and, except as otherwise provided by agreement, shall not be maintained at an amount greater than that required to pay principal and interest on bonds which will become due within the next succeeding two year period. The agreement shall be executed by the city, after approval by resolution of the city council and before the issuance of the bonds under section 473.581 and commencement of construction, and shall constitute a contract with and for the security of all holders of the bonds and revenue anticipation certificates secured by the tax. A sports facility shall not be constructed or remodeled in a municipality which has not entered into an agreement in accordance with this section. The tax shall be reported and paid to the commissioner of revenue with and as part of the state sales and use taxes, and shall be subject to the same penalties, interest, and enforcement provisions. The collections of the tax, less refunds and a proportionate share of the costs of collection, shall be remitted at least quarterly to the metropolitan council. The commissioner of revenue shall deduct from the proceeds remitted to the council an amount that equals the indirect statewide costs as well as the direct and indirect

department costs necessary to administer, audit, and collect this tax. The amount deducted shall be deposited in the general fund of the state. The proceeds remitted shall be placed, together with the net revenues of the commission under section 473.595, into the debt service fund or reserve or special funds, established under section 473.581, and any funds established to secure payment of operating deficits of the commission. The proceeds may be used for payment of debt service on bonds and revenue anticipation certificates issued under section 473.581, debt service on bonds referred to in section 473.564, subdivision 2, and expenses of operation, administration, and maintenance of the sports facilities. The proceeds shall not be used for any capital costs of sports facilities constructed under sections 473.551 to 473.595, except that the proceeds may be used to pay interest on bonds during the construction period.

Subd. 2. Metropolitan liquor tax. All proceeds of the liquor tax collected by the council pursuant to the provisions of Minnesota Statutes 1978, section 473.591, prior to August 1, 1979, not otherwise expended or applied as provided in this chapter, together with any earnings derived from the investment of such revenues, may be used for any purpose for which the tax revenues under subdivision 1 may be used.

History: 1979 c 203 s 11

473.595 COMMISSION FINANCES.

Subdivision 1. Admission tax. Effective January 1, 1978, the commission shall by resolution impose a three percent admission tax upon the granting, sale, or distribution, by any private or public person, association, or corporation, of the privilege of admission to activities; except for those activities sponsored at the indoor public assembly facility at the metropolitan sports area known as the metropolitan sports center. Commencing with the operation of sports facilities constructed or remodeled by the commission pursuant to sections 473.551 to 473.595, the commission shall impose an additional seven percent admission tax upon activities conducted at such sports facilities. Effective January 1, 1978, no other tax, except the taxes imposed by chapter 297A, may be levied by any other unit of government upon any such sale or distribution. The admission tax shall be stated and charged separately from the sales price so far as practicable and shall be collected by the grantor, seller, or distributor from the person admitted and shall be a debt from that person to the grantor, seller, or distributor, and the tax required to be collected shall constitute a debt owed by the grantor, seller, or distributor to the commission, which shall be recoverable at law in the same manner as other debts. Every person granting, selling, or distributing tickets for such admissions may be required, as provided in resolutions of the commission, to secure a permit, to file returns, to deposit security for the payment of the tax, and to pay such penalties for nonpayment and interest on late payments, as shall be deemed necessary or expedient to assure the prompt and uniform collection of the tax.

Notwithstanding any other provisions of this subdivision, the imposition of an admission tax upon a national superbowl football game conducted at the commission's facilities is discretionary with the commission.

Subd. 2. Rentals; fees; charges. Rentals, fees, and charges provided for in use agreements entered into by the commission shall be those estimated by the commission to be necessary and feasible to produce so far as possible, with commission revenues from other sources, the amounts needed for current operation, maintenance, and debt service. The commission shall with respect to all facilities in the metropolitan sports area and any sports facility constructed pursuant to Laws 1977, chapter 89 meet and confer with any public body, authority, or agency owning or operating an entertainment or sports complex, or indoor sports arena, in the area in which Laws 1977, chapter 89 is effective, for the purpose of undertaking measures or agreements maximizing revenues and eliminating unnecessary operational expenditures.

Subd. 3. Budget preparation; review and approval. The commission shall comply with the provisions of section 473.163, provided that the entire budget, including operating revenues and expenditures for operation, administration, and maintenance, shall be subject to approval by the council, in accordance with the procedures described in section 473.163.

Subd. 4. **Payment of council costs.** The commission shall comply with the provisions of section 473.164.

Subd. 5. **Audit.** The legislative auditor shall make an independent audit of the commission's books and accounts once each year or as often as the legislative auditor's funds and personnel permit. The costs of the audits shall be paid by the commission pursuant to section 3.9741. The council may examine the commission's books and accounts at any time.

Subd. 6. **General.** The commission shall receive and account for all tax and other revenue of the commission and from the revenue shall provide, contract, and pay for proper operation, administration, and maintenance of all of its property and facilities and shall maintain, as authorized by resolutions of the council, reserves for major repairs, replacements, and improvements and for working capital. The commission shall remit to the council for deposit in its debt service fund, at the times required by resolution of the council, the net revenue in excess of these requirements.

Subd. 7. **Sale of seats.** The commission may sell seats in any multipurpose sports facility constructed after June 30, 1979 at prices and subject to conditions consistent with this section. Ownership of a seat shall give the owner first preference for purchase of a season ticket of admission for professional sports exhibitions with a right to be seated in the owned seat. An owner may sell or otherwise transfer the rights on whatever terms the owner chooses. Rights to a seat may not be divided. No fee may be charged for a transfer of ownership of a seat. The commission may charge a maintenance fee not exceeding \$10 per year for each seat.

History: 1977 c 89 s 12; 1979 c 203 s 12,13; 1979 c 303 art 10 s 14; 1984 c 502 art 14 s 15; 1984 c 638 s 4; 1986 c 444

473.596 ACCESS STREETS AND HIGHWAYS, HIGHWAY USER TAX DISTRIBUTION FUND.

No money derived from the highway user tax distribution fund shall be used to construct, relocate, or improve any streets, highways, or other public thoroughfares, except ones included in the municipal state aid street system established pursuant to article XIV, section 4, of the Minnesota Constitution if such work is done in order to provide or improve access to a new sports facility constructed pursuant to sections 473.551 to 473.595. The commissioner of transportation shall determine whether expenditures are in violation of this section.

History: 1979 c 203 s 14; 1980 c 608 s 2

473.597 [Repealed, 1982 c 501 s 26]

METROPOLITAN AIRPORTS COMMISSION

473.601 DEFINITIONS.

Subdivision 1. The following words, terms and phrases shall, for the purposes of sections 473.601 to 473.679 be given the meanings subjoined to them.

Subd. 2. "Commission" and "corporation" each means a metropolitan airports commission, organized and existing under the provisions of sections 473.601 to 473.679.

Subd. 3. "City council" or "council" means the governing body of each of the cities of Minneapolis and St. Paul.

Subd. 4. "Commissioner" means a person appointed or otherwise selected as, and, after qualification, acting as, a member of the corporation.

Subd. 5. "The commissioners" means a quorum of the members of the corporation, acting as the governing body of the corporation.

Subd. 6. "City" or "each city" means one of the cities of Minneapolis and St. Paul.

History: 1975 c 13 s 94; 1986 c 444

473.602 DECLARATION OF PURPOSES.

It is the purpose of sections 473.601 to 473.679 to:

(1) promote the public welfare and national security; serve public interest, convenience, and necessity; promote air navigation and transportation, international, national, state, and local, in and through this state; promote the efficient, safe, and economical handling of air commerce; assure the inclusion of this state in national and international programs of air transportation; and to those ends to develop the full potentialities of the metropolitan area in this state as an aviation center, and to correlate that area with all aviation facilities in the entire state so as to provide for the most economical and effective use of aeronautic facilities and services in that area;

(2) assure the residents of the metropolitan area of the minimum environmental impact from air navigation and transportation, and to that end provide for noise abatement, control of airport area land use, and other protective measures; and

(3) promote the overall goals of the state's environmental policies and minimize the public's exposure to noise and safety hazards around airports.

To achieve these purposes, the corporation shall cooperate with and assist the metropolitan council, the federal government, the commissioner of transportation of this state, the pollution control agency, and others engaged in aeronautics or the promotion and regulation of aeronautics and shall seek to coordinate its activities with the aeronautical activities of these bodies.

History: 1975 c 13 s 95; 1976 c 166 s 7; 1988 c 664 s 1

473.603 METROPOLITAN AIRPORTS COMMISSION; CREATION.

Subdivision 1. For the purposes provided in sections 473.601 to 473.679 the metropolitan airports commission has been created as a public corporation. Except as provided otherwise in Laws 1974, chapter 455, the existence and the powers, responsibilities, rights, and obligations of this corporation are confirmed and extended in accordance with the provisions of those sections, as they now exist and as they are now and may hereafter be amended and supplemented.

Subd. 2. The commission shall be organized, structured and administered as provided in sections 473.601 to 473.679.

History: 1975 c 13 s 96

473.604 MEMBERSHIP, GOVERNMENT.

Subdivision 1. The commission consists of:

(1) the mayor of each of the cities, or a qualified voter appointed by the mayor, for the term of office as mayor;

(2) a number of members appointed from precincts equal or nearest to but not exceeding half the number of districts which are provided by law for the selection of members of the metropolitan council in section 473.123. Each member shall be a resident of the precinct represented. The members shall be appointed by the governor as follows: a number as near as possible to one-fourth, for a term of one year; a similar number for a term of two years; a similar number for a term of three years; and a similar number for a term of four years, all of which terms shall commence on July 1, 1981. The successors of each member shall be appointed for four-year terms commencing in July of each fourth year after the expiration of the original term. Before making an appointment, the governor shall consult with each member of the legislature from the precinct for which the member is to be appointed, to solicit the legislator's recommendation on the appointment; and

(3) a chair appointed by the governor for a term of four years. The chair may be removed at the pleasure of the governor.

Subd. 2. Each mayor, or any voter appointed by the mayor instead, shall serve as a commissioner for the term of office of such mayor. The office of any commissioner who is a member of a city council or board shall become vacant when for any reason

the commissioner ceases to hold the city office to which elected, and the office of any commissioner shall become vacant upon the occurrence of any event referred to in section 351.02. Except as provided in the preceding sentences of this subdivision, each commissioner shall serve until a successor is duly appointed and has qualified. Any vacancy in the office of a commissioner shall immediately be filled for the unexpired term, and in such case, or when the term of a commissioner expires, a successor shall be chosen in the same manner as was the predecessor, and the appointment shall be evidenced in the same manner.

Subd. 3. The clerk, secretary, or other appropriate official of each appointing public body shall immediately file with the secretary of state a certified copy of each resolution appointing commissioners. The city clerk of each city, upon the election and qualification of each new mayor thereof, shall file with the secretary of state a certificate stating the mayor's full name and address, and that such mayor has elected to act as a commissioner, or, in the event such mayor has appointed some other qualified voter instead, shall file a certified copy of the order of the mayor appointing such commissioner. The governor shall file appointments in the same office. Each person selected as a commissioner shall thereupon file in the same office the oath of office prescribed by the state Constitution, article V, section 5, subscribed by the person and certified by the officer administering the same.

Subd. 4. Should any of the said appointments not be made within 60 days after the commencement of the term for which it is to be made, the governor shall upon the request of the chair select and appoint such commissioners as have not been so designated. Any commissioner so appointed by the governor shall be a legal voter of the city, county, or precinct for which appointed. Upon filing the oath of office required by subdivision 3, the appointee shall have all the rights, privileges, and powers of a commissioner duly appointed as provided in subdivision 2. If thereafter any vacancy in the office of a commissioner shall not be promptly filled, the governor may upon request of the chair proceed as in this subdivision provided.

Subd. 5. The commission shall meet regularly at least once each month, at such time and place as the commission shall by resolution designate. Special meetings may be held at any time upon the call of the chair or any two other members, upon written notice sent by certified mail to each member at least three days prior to the meeting, or upon such other notice as the commission may by resolution provide, or without notice if each member is present or files with the secretary a written consent to the meeting either before or after the meeting. Unless otherwise provided, any action within the authority of the commission may be taken by the affirmative vote of a majority of all the members. A majority of all of the members of the commission shall constitute a quorum, but a lesser number may meet and adjourn from time to time and compel the attendance of absent members.

Subd. 6. **Audit.** The legislative auditor shall audit the books and accounts of the commission once each year or as often as the legislative auditor's funds and personnel permit. The commission shall pay the total cost of the audit pursuant to section 3.9741.

Subd. 7. **Members; duties.** Members appointed under subdivision 1 have the duties imposed by section 473.141, subdivision 3a.

History: 1975 c 13 s 97; 1976 c 2 s 172; 1983 c 171 s 1; 1984 c 638 s 5; 1986 c 444; 1987 c 223 s 1; 1987 c 278 s 20,21

473.605 ORGANIZATION; CORPORATE SEAL; BYLAWS.

Subdivision 1. The commissioners shall adopt a corporate seal and shall adopt bylaws for the regulation of the affairs of the corporation and rules of procedure governing their actions, not inconsistent with law. The bylaws shall provide for regular meetings of the corporation to be held at least once in each month and for special meetings.

Subd. 2. Each commission member shall be paid a per diem compensation of \$50 for each meeting of the commission, one of its committees, and attendance and

participation at a meeting or hearing as a representative of the commission pursuant to state law or rule. Members shall be reimbursed for all actual and necessary expenses incurred in the performance of their duties in the same manner and amount as state employees. The chair shall receive compensation as determined by the commission and shall be reimbursed for reasonable expenses to the same extent as a member. The mayors and members of the city councils of Minneapolis and St. Paul shall not be eligible for per diem compensation. The annual budget of the commission 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 and members only when budgeted.

Subd. 3. The removal of residence of any commissioner from the area from which appointed or otherwise selected as a representative shall operate as a resignation of office. Any commissioner may be removed from office by the appointing body or person for misfeasance, malfeasance, or nonfeasance in office, upon written charges and after an opportunity to be heard in defense of the charges.

History: 1975 c 13 s 98; 1977 c 417 s 1,2; 1Sp1985 c 13 s 356; 1986 c 444

NOTE: Section 473.605, Subdivision 2, was also amended by Laws 1977, Chapter 35, Section 8, to read as follows:

"Subd. 2. Each commission member shall be paid a per diem compensation of \$35 for each meeting and for such other services as are specifically authorized by the commission, and shall be reimbursed for all actual and necessary expenses incurred in the performance of his duties in the same manner and amount as state employees. The chairman shall receive a salary as prescribed in section 15A.081 and shall be reimbursed for reasonable expenses to the same extent as a member."

473.606 OFFICERS.

Subdivision 1. The corporation shall elect from its membership a vice-chair and shall elect a secretary and a treasurer, who may or may not be one of the commissioners. The vice-chair, the secretary, and the treasurer shall hold office at the pleasure of the corporation, and the secretary and the treasurer, if not a commissioner, shall receive compensation as determined by the corporation.

Subd. 2. The chair, vice-chair, and secretary shall have such powers and perform such duties as may be given or imposed upon them by sections 473.601 to 473.679, or by the bylaws of the corporation.

Subd. 3. The treasurer shall receive and be responsible for all moneys of the corporation, from whatever source derived, and the same shall be considered public funds. The treasurer shall disburse the moneys of the corporation only on orders made by the executive and operating officer, herein provided for, countersigned by such other officer or such employee of the corporation as may be authorized and directed so to do by the corporation, showing the name of the claimant and the nature of the claim. No disbursement shall be certified by such officers until the same have been approved by said commissioners at a meeting thereof. Whenever the executive director of the corporation shall certify, pursuant to action taken by the commissioners at a meeting thereof, that there are moneys and the amount thereof in the possession of the treasurer not currently needed, then the treasurer may invest said amount or any part thereof in:

(a) Treasury bonds, certificates of indebtedness, bonds or notes of the United States of America, or bonds, notes or certificates of indebtedness of the state of Minnesota, all of which must mature not later than three years from the date of purchase.

(b) Bonds, notes, debentures or other obligations issued by any agency or instrumentality of the United States or any securities guaranteed by the United States government, or for which the credit of the United States is pledged for the payment of the principal and interest thereof, all of which must mature not later than three years from date of purchase.

(c) Commercial paper of prime quality, or rated among the top third of the quality categories, not applicable to defaulted paper, as defined by a nationally recognized organization which rates such securities as eligible for investment in the state employees retirement fund except that any nonbanking issuing corporation, or parent company in the case of paper issued by operating utility or finance subsidiaries, must have

total assets exceeding \$500,000,000. Such commercial paper may constitute no more than 30 percent of the book value of the fund at the time of purchase, and the commercial paper of any one corporation shall not constitute more than four percent of the book value of the fund at the time of such investment.

(d) Any securities eligible under the preceding provisions, purchased with simultaneous repurchase agreement under which the securities will be sold to the particular dealer on a specified date at a predetermined price. In such instances, all maturities of United States government securities, or securities issued or guaranteed by the United States government or an agency thereof, may be purchased so long as any such securities which mature later than three years from the date of purchase have a current market value exceeding the purchase price by at least five percent on the date of purchase, and so long as such repurchase agreement involving securities extending beyond three years in maturity be limited to a period not exceeding 45 days.

(e) Certificates of deposit issued by any official depository of the commission. The commission may purchase certificates of deposit from a depository bank in an amount exceeding that insured by federal depository insurance to the extent that those certificates are secured by collateral maintained by the bank in a manner as prescribed for investments of the state board of investment.

Whenever it shall appear to the commissioners that any invested funds are needed for current purposes before the maturity dates of the securities held, they shall cause the executive director to so certify to the treasurer and it shall then be the duty of the treasurer to order the sale or conversion into cash of the securities in the amount so certified. All interest and profit on said investments shall be credited to and constitute a part of the funds of the commission. The treasurer shall keep an account of all moneys received and disbursed, and at least once a year, at times to be designated by the corporation, file with the secretary a financial statement of the corporation, showing in appropriate and identifiable groupings the receipts and disbursements since the last approved statements; moneys on hand and the purposes for which the same are appropriated; and shall keep an account of all securities purchased as herein provided, the funds from which purchased and the interest and profit which may have accrued thereon, and shall accompany the financial statement aforesaid with a statement setting forth such account. The corporation may pay to the treasurer from time to time compensation in such amount as it may determine to cover clerk hire to enable the treasurer to carry out duties and those required in connection with bonds issued by the corporation as in this act authorized.

Subd. 4. The corporation shall appoint an executive director, who shall be the executive and operating officer of the corporation, shall serve at the pleasure of the corporation, and shall receive compensation as determined by it. The director shall have had experience as a business executive, preferably in connection with aviation and in the promotion of business enterprises. Under the supervision of the corporation, the director shall be responsible for the operation, management, and promotion of all activities with which the corporation is charged, together with other duties prescribed by the corporation. The director shall have the powers necessarily incident to the performance of duties and those other powers granted by the corporation, but shall not have authority to incur liability or make expenditures on behalf of the corporation without general or specific directions by the corporation, as shown by the bylaws or minutes of a meeting thereof.

Subd. 5. The corporation shall have the power to appoint engineers and other consultants, attorneys, and such other officers, agents, and employees as it may see fit, who shall perform such duties and receive such compensation as the corporation may determine, and be removable at the pleasure of the corporation. The corporation shall adopt an affirmative action plan, which shall be submitted to the appropriate agency or office of the state for review and approval. The plan shall include a yearly progress report to the agency or office. Officers and employees of the corporation who cannot qualify and participate in the municipal employees retirement fund under chapter 422A, shall be separated from service at the retirement age applicable to officers or

employees of the state of Minnesota in the classified service of the state civil service as provided in section 43A.34, or as the same may from time to time be amended, regardless of the provisions of the veteran's preference act. Whenever the corporation performs any work within the limits of a city of the first class, or establishes a minimum wage for skilled or unskilled labor in the specifications or any contract for work within one of the cities, the rate of pay to such skilled and unskilled labor shall be the prevailing rate of wage for such labor in that city.

Subd. 6. The corporation may indemnify any commissioner, officer, or employee for loss or expense arising or resulting from any claim made because of bodily injury, death or property damage sustained by reason of performance of official duties for the corporation, including bodily injury, death or property damage sustained by reason of operation of a motor vehicle while performing official duties. It may defend any suit brought against any such commissioner, officer, or employee to enforce any such claim and may settle any such claim or suit and pay the amount of any such settlement or the amount of any final judgment rendered against any such commissioner, officer, or employee on any such claim without first requiring payment on it. It may pay the premium on any insurance policy which insures any commissioner, officer, or employee of the corporation or any group of such commissioners, officers, or employees against liability for injuries to person or property within the limitations of this paragraph. It may take such action as may be necessary to bring the corporation and its commissioners, officers, and employees within the provisions and limitations of chapter 170.

Subd. 7. Any insurance contract covering such risk shall contain, as a condition precedent, a clause or provision expressly waiving the defense, by the insurer, that the corporation is engaged in a governmental function.

History: 1975 c 13 s 99; 1977 c 417 s 3,4; 1978 c 466 s 1; 1981 c 210 s 54; 1Sp1985 c 13 s 357; 1986 c 444

473.608 POWERS OF CORPORATION.

Subdivision 1. The corporation, subject to the conditions and limitations prescribed by law, shall possess all the powers as a body corporate necessary and convenient to accomplish the objects and perform the duties prescribed by sections 473.601 to 473.679, including but not limited to those hereinafter specified. These powers, except as limited by section 473.622, may be exercised at any place within 35 miles of the city hall of either Minneapolis or St. Paul, and in the metropolitan area.

Subd. 2. It may acquire by lease, purchase, gift, devise, or condemnation proceedings all necessary right, title, and interest in and to lands and personal property required for airports and all other real or personal property required for the purposes contemplated by sections 473.601 to 473.679, within the metropolitan area, pay therefor out of funds obtained as hereinafter provided, and hold and dispose of the same, subject to the limitations and conditions herein prescribed. Title to any such property acquired by condemnation or purchase shall be in fee simple, absolute, unqualified in any way, but any such real or personal property or interest therein otherwise acquired may be so acquired or accepted subject to any condition which may be imposed thereon by the grantor or donor and agreed to by the corporation, not inconsistent with the proper use of the property by the corporation for the purposes herein provided. Any properties, real or personal, acquired, owned, leased, controlled, used, and occupied by the corporation for any of the purposes of sections 473.601 to 473.679, are declared to be acquired, owned, leased, controlled, used, and occupied for public, governmental, and municipal purposes, and shall be exempt from taxation by the state or any of its political subdivisions. Nothing contained in sections 473.601 to 473.679, shall be construed as exempting properties, real or personal, leased from the metropolitan airports commission to a tenant or lessee who is a private person, association, or corporation from assessments or taxes.

Subd. 3. It may exercise the right of eminent domain in the manner provided by chapter 117 for the purpose of acquiring any property which it is herein authorized to acquire by condemnation. The fact that the property so needed has been acquired by

the owner under power of eminent domain, or is already devoted to a public use, shall not prevent its acquisition by such corporation by the exercise of the right of eminent domain herein conferred. The corporation may take possession of any such property so to be acquired at any time after the filing of the petition describing the same in condemnation proceedings. It shall not be precluded from abandoning the condemnation of any such property in any case where possession thereof has not been taken. When the airports owned by the affected cities are taken over by the corporation under the provisions of Laws 1943, Chapter 500, all persons who are employees of the public body having the management and control of such airport at the time of the taking of the same, shall preserve their status and be entitled to all the rights and privileges under the provisions of any civil service or pension act contained in any charter of any city under which they had been previously employed, or any applicable law of the state of Minnesota.

Subd. 4. It may sue and be sued.

Subd. 5. It may contract and be contracted within any matter connected with any purpose or activity within the powers of the corporation as specified in sections 473.601 to 473.679.

Subd. 6. It may construct and equip new airports, with all powers of acquisition set out in subdivision 2, pay therefor out of the funds obtained as hereinafter provided, and hold, maintain, operate, regulate, police, and dispose of them or any of them as hereinafter provided.

Subd. 7. In addition to the municipal airports taken over by the corporation under the provisions of Laws 1943, Chapter 500, the corporation may acquire by lease, purchase, gift, devise, or condemnation proceedings any existing airports, equip the same and make additions thereto or improvements thereon, pay therefor out of the funds obtained as hereinafter provided, and hold, maintain, operate, regulate, police, and dispose of them or any of them as hereinafter provided; provided, that said corporation shall have no authority to dispose of nor lease municipally owned airports taken over under the provisions of sections 473.601 to 473.679; and provided further, that the corporation shall not acquire a municipally owned airport without the consent of such municipality.

Subd. 8. It may contract with the owners of existing privately owned airports for the use, equipment, improvement, maintenance, management, and operation by it of such airports, and thereafter use, equip, improve, maintain, manage, operate, regulate, and police them.

Subd. 9. It may acquire such air rights over private property as are necessary to insure safe approaches to the landing areas of all airports controlled by it, in the manner provided in subdivision 2 for the acquisition of airport property.

Subd. 10. It may acquire rights or easements for terms of years, or perpetually, to place, operate, and maintain suitable markings and lights for daytime or nighttime marking of buildings or other structures or obstructions, for the safe operation of aircraft utilizing airports to be acquired or maintained under the provisions of sections 473.601 to 473.679, in the manner provided in subdivision 2 for the acquisition of airport property.

Subd. 11. It may purchase all supplies and materials necessary in carrying out the purposes of sections 473.601 to 473.679.

Subd. 12. It may borrow money and issue bonds for the purposes of acquiring property, the acquisition of which is herein authorized, constructing and equipping new airports, acquiring existing airports, equipping them and making additions thereto or improvements thereon, and making capital improvements to any airport constructed or acquired by the corporation, or for the purpose of making payments on principal or interest of bonds heretofore issued by either of the cities or any board of park commissioners of either thereof to secure funds for the acquisition, establishment, construction, enlargement or improvement of any airport taken over by the corporation pursuant to the provisions of section 473.621, payment of which has been assumed by

the corporation, in the manner and within the limitations herein specified, and pledge any and all property and income of the corporation acquired or received as herein provided to secure the payment of such bonds, subject to the conditions and limitations herein prescribed, and redeem any such bonds if so provided therein or in the mortgage or deed of trust accompanying them, and may assume the payment of existing bonded indebtedness as specifically provided in sections 473.601 to 473.679.

Subd. 13. It may use for the following purposes any available moneys received by it from any source as herein provided, in excess of those appropriated, donated, loaned, or otherwise paid over to the corporation for specific purposes, or received from the sale of bonds, and those required for the payment of any bonds issued by the corporation and interest thereon, according to the terms of such bonds or of any mortgage or trust deed accompanying the same: (a) To pay the necessary incidental expenses of carrying on the business and activities of the corporation as herein authorized; (b) to pay the cost of operating, maintaining, repairing, extending, and improving the properties under the control of the corporation; (c) to pay interest and principal of any bonds heretofore issued by either of the cities or any board of park commissioners of either thereof to secure funds for the acquisition, establishment, construction or enlargement of any airport referred to in section 473.621, subdivision 2, payment of which has been assumed by it, or by the state of Minnesota; (d) if any further such excess moneys remain, to purchase upon the open market at or above or below the face or par value thereof any bonds issued by the corporation as herein authorized; any bonds so purchased to thereupon be canceled.

Subd. 14. It may accept from the United States or the state of Minnesota, or any of their agencies, moneys or other assistance, whether by gift, loan, or otherwise, for the purpose of carrying out the purposes of sections 473.601 to 473.679, and developing airports and other aeronautic facilities, and may enter into such contracts with the United States or the state of Minnesota, or any of their agencies as it may deem proper and consistent with the purposes of sections 473.601 to 473.679.

Subd. 15. Without limitation upon any other powers in sections 473.601 to 473.679, it may contract with any person for the use by the person of any property and facilities under its control, for such purposes, and to an extent as will, in the opinion of the commissioners, further the interests of aeronautics in this state and particularly within the metropolitan area, including, but not limited to, the right to lease property or facilities, or any part thereof, for a term not to exceed 99 years, to any person, the national government, or any foreign government, or any department of either, or to the state or any municipality. The corporation shall not have the authority to lease, in its entirety, any municipal airport taken over by it under the provisions of sections 473.601 to 473.679. The commission may contract with any person for the use or lease in accordance with this subdivision of any property and facilities under its control for motel, hotel and garage purposes, and for other purposes as, in the opinion of the commissioners, are desirable to furnish goods, wares, services and accommodations to or for the passengers and other users of airports under the control of the corporation. Nothing in this subdivision shall be interpreted to permit the sale of intoxicating liquor upon the property or facilities except as authorized in chapter 340.

Subd. 16. It may generally carry on the business of acquiring, establishing, developing, extending, maintaining, operating, and managing airports, with all powers incident thereto.

Subd. 17. **Ordinances.** (1) It may adopt and enforce rules, regulations, and ordinances it deems necessary for the purposes of sections 473.601 to 473.679, including those relating to the internal operation of the corporation and to the management and operation of airports owned or operated by it, subject to sections 473.601 to 473.679. Any person violating any rule, regulation or ordinance is guilty of a misdemeanor.

(2) The prosecution may be before a county or municipal court having jurisdiction over the place where the violation occurs. Every sheriff, constable, police officers, and other peace officer shall arrest offenders. The fines collected shall be paid into the

treasury of the corporation. The portion of the fines necessary to cover all costs and disbursements incurred in processing and prosecuting the violations in the court shall be transferred to the court administrator. All persons committed shall be received into any penal institution in the county in which the offense was committed. All persons shall take notice of the rules, regulations, and ordinances without pleading or proof.

(3) A public hearing need not be held on rules, regulations and ordinances relating to the internal operation of the commission or to the management or operation of airports owned or operated by it unless the rule, regulation or ordinance affects substantial rights.

(4) When necessary, the corporation may adopt and enforce without a public hearing all other rules, regulations or ordinances, but it shall hold a public hearing within 30 days after their adoption. Prior to the hearing, the corporation shall give at least 15 days notice by publication in appropriate legal newspapers of general circulation in the metropolitan area and mail a copy of them to all interested parties who have registered their names with the corporation for that purpose. If the rules, regulations, or ordinances are not deemed immediately necessary, the corporation shall hold a public hearing on them after giving the required notice. The rules, regulations, or ordinances shall not be adopted and enforced until after the hearing.

(5) Notice of the adoption of rules, regulations and ordinances shall, as soon as possible after adoption, be published in appropriate legal newspapers of general circulation in the metropolitan area. Proof of publication and a copy of the rule, regulation, or ordinance shall be filed with the secretary of state. They shall then be in full force and effect.

(6) Any person substantially interested or affected in rights as to person or property by a rule, regulation or ordinance adopted by the corporation, may petition the corporation for reconsideration, amendment, modification, or waiver of it. The petition shall set forth a clear statement of the facts and grounds upon which it is based. The corporation shall grant the petitioner a public hearing within 30 days after the filing of the petition.

Subd. 18. It shall have the power to conduct investigations, inquiries and hearings concerning matters covered by the provisions of sections 473.601 to 473.679 and orders, rules and regulations of the commission; and shall hold hearings as required by said sections 473.601 to 473.679. Notice of hearings to all interested parties shall be given as specified in said sections 473.601 to 473.679, in the instances specified, and otherwise in accordance with such rules as the commission may adopt. All hearings shall be open to the public, and shall be conducted by the commission itself or a committee or member thereof designated by the commission for such purposes. Where a hearing is conducted by a committee or a member of the commission, such committee or member shall make a full and complete report thereof, together with a transcript of all testimony and evidence taken at the hearing, to the commission and the commission shall proceed to a determination of the subject matter of said hearing and make its findings and conclusions and order with respect thereto. Any member of the commission conducting or participating in the conduct of any hearing shall have the power to administer oaths and affirmations, to issue subpoenas, and compel the attendance and testimony of witnesses, and the production of papers, books and documents. The commission, or its director, shall upon request of any party to a hearing issue subpoenas to compel the attendance and testimony of witnesses, and the production of papers, books and documents. In case of failure of any witness to comply with any served subpoena, the commission may invoke the aid of any court of this state of general jurisdiction. The court may order the witness to comply with the subpoena and any failure so to do may be punished by the court as a contempt thereof. The testimony and other evidence at any and all hearings shall be taken by a reporter employed by the commission, and any party in interest upon payment to said reporter of the going rates therefor shall be entitled to a transcript thereof. Witnesses shall receive the same fees and mileage as in court actions, and a witness before being required to respond to a subpoena shall be given fees and mileage for one day's attendance.

Subd. 19. The corporation shall construct an acoustical barrier in or along the perimeter of maintenance areas of the Minneapolis-St. Paul International Airport. It also shall construct acoustical barriers along the perimeter of runways of such airport where it is reasonably necessary, practical and safe to do so according to the standards of the Federal Aviation Administration. All barriers shall conform to specifications approved by the pollution control agency. For purposes of this subdivision, an acoustical barrier is a wall, fence, natural barrier such as an earthen barrier or trees designed to abate noise. The corporation shall also confer and cooperate with any entity which it creates for the purpose of studying and implementing sound abatement programs and with representatives of persons residing in the vicinity of any airport who desire to explore means for relieving the area of the detrimental effects of aircraft noise.

Notwithstanding the provisions of any other law none of the construction authorized by this subdivision shall be subject to review or approval by the metropolitan council.

Subd. 20. Subject to the final enactment of the Airport and Airways Development Act Amendments of 1975 the corporation shall install aircraft noise suppressing equipment at the ground run-up operation sites of the Minneapolis-St. Paul International Airport. All such aircraft noise suppressing equipment shall conform to specifications approved by the pollution control agency. The deadline for design selection shall be no later than March 1, 1985.

Subd. 21. The corporation shall establish one joint airport zoning board for each airport operated under its authority in accordance with section 360.063, subdivision 3, clause (5). Notwithstanding the provisions of section 360.065, subdivision 1, mailed notice to property owners is not required for hearings concerning adoption of zoning regulations by a joint airport zoning board for Minneapolis-St. Paul International Airport.

History: 1975 c 13 s 100; 1976 c 265 s 1; 1977 c 417 s 5-7; 1979 c 302 s 4; 1980 c 450 s 2; 1981 c 27 s 2; 1983 c 330 s 2; 1983 c 359 s 67; 1986 c 444; 1Sp1986 c 3 art 1 s 82

473.609 INTERMEDIATE AIRPORTS; ACQUISITION, CONSTRUCTION, IMPROVEMENT.

In any case where the acquisition, construction, improvement, and operation of an airport by a corporation created pursuant to sections 473.601 to 473.679, shall have resulted in conflict with or damage to airport property in existence and in operation at the time of such acquisition and construction, the owner of such airport property may petition the corporation for relief, and upon the filing of such a petition and within 60 days thereof, the corporation shall exercise its power of eminent domain to extinguish such airport operation and take by condemnation the buildings, aeronautical improvements, and otherwise compensate the owner for the cost of the aeronautical improvements made to the land area and for the cost of restoring the land to its original uses, and shall pay therefor out of funds provided pursuant to section 473.665.

History: 1975 c 13 s 101

473.611 PLANS TO BE CONSISTENT WITH METROPOLITAN COUNCIL DEVELOPMENT GUIDE.

Subdivision 1. [Repealed, 1977 c 417 s 14]

Subd. 2. [Repealed, 1977 c 417 s 14]

Subd. 3. [Repealed, 1977 c 417 s 14]

Subd. 4. [Repealed, 1977 c 417 s 14]

Subd. 5. Any long-term comprehensive plans adopted by the commission for the betterment and enlargement of existing airports, for the acquisition and construction of new airports, and for the categories of use of airports owned or controlled by the commission shall be consistent with the development guide of the metropolitan council.

History: 1975 c 13 s 102; 1977 c 417 s 8; 1984 c 561 s 1

473.612 NOISE ABATEMENT.

(a) By December 31, 1981, the commission shall submit to the legislature a noise abatement plan for the Minneapolis-St. Paul International Airport, containing annual programmatic goals, numerical goals, and objectives until December 31, 1989, for reduction of aircraft noise within the metropolitan area. The plan shall also contain, but not be limited to, documentation of annual change in the maximum hourly noise levels, such as defined by Minnesota pollution control agency rules, Minnesota Rules, chapter 7010, based on the typically worst noise condition on an hourly basis received in residential areas representing the noise-impacted region of the metropolitan area. The pollution control agency shall participate in the selection and review of the monitoring of such residential areas.

(b) By December 31, 1982, and each year thereafter until December 31, 1989, the commission shall submit to the legislature and the pollution control agency a draft report detailing the accomplishment of programmatic goals and objectives and the annual change in noise levels as outlined in the above noise abatement plan. By December 31, 1984, and each year thereafter until December 31, 1989, the commission shall submit to the legislature a report which includes any comments provided by the pollution control agency and the commission's response to the comments. In addition, the commission shall provide as part of the annual reports its best estimate, in the form of numerical goals, of noise abatement to be achieved by December 31, 1989, in residential areas representing the noise-impacted region of the metropolitan area. The goals shall be updated annually.

(c) In the December 31, 1987, report, the commission shall describe and document the percentage reduction in average daily noise energy, produced cumulatively by all the operations of all air carrier aircraft serving the Minneapolis-St. Paul International Airport, from the level existing in August 1986.

History: 1981 c 27 s 3; 1984 c 639 s 1; 1987 c 223 s 2

473.614 ENVIRONMENTAL REVIEW.

Subdivision 1. Capital plan; environmental assessments. The commission shall prepare an assessment of the environmental effects of projects in the commission's seven-year capital improvement program and plan at each airport owned and operated by the commission. The assessment must examine the cumulative environmental effects at each airport of the projects at that airport, considered collectively. The commission need not prepare an assessment for an airport when the capital improvement program and plan for that airport has not changed from the one adopted the previous year or when the changes in the program and plan will have only trivial environmental effects.

Subd. 2. Capital program; environmental assessment worksheets. (a) The commission shall prepare environmental assessment worksheets under chapter 116D, and rules issued pursuant thereto, on the environmental effects of projects in the commission's capital improvement program at each airport owned and operated by the commission. The scope of the environmental assessment worksheets required by this section is limited to only those projects in the program for an airport that meet all of the following conditions:

- (1) The project is scheduled in the program for the succeeding calendar period.
- (2) The project is scheduled in the program for the expenditure of \$5,000,000 or more at Minneapolis-St. Paul International Airport or \$2,000,000 or more at any other airport.
- (3) The project involves: (i) the construction of a new or expanded structure for handling passengers, cargo, vehicles, or aircraft; or (ii) the construction of a new or the extension of an existing runway or taxiway.

After adopting its capital program, the commission may amend the program by adding or changing a project without amending or redoing the worksheets required by this subdivision, if the project to be added or the change to be made is one that the

commission could not reasonably have foreseen at the time that it completed the worksheets.

(b) For the purpose of determining the need for an environmental impact statement, the commission shall consider the projects included in the scope of a worksheet as a single project and shall assess their environmental effects collectively and cumulatively. The commission's decision on whether an environmental impact statement is needed must be based on the worksheet and comments. The commission may not base a decision that an environmental impact statement is not needed on exemptions of projects in state or federal rules. The commission is not required to prepare an environmental impact statement on an individual project, or to include a project in the scope of an environmental impact statement that the commission determines is needed, if the project is shown in the worksheet to have trivial environmental effects or if an environmental impact statement on the project has been determined to be adequate under state law.

(c) The commission may incorporate into worksheets information from the commission's long-range plans, environmental assessments prepared under subdivision 1, or other environmental documents prepared on projects under state or federal law.

Subd. 3. Procedure. (a) The environmental assessments required under subdivision 1 and the environmental assessment worksheets required under subdivision 2 must be prepared each year before the commission adopts its capital improvement plan and program.

(b) The commission shall hold a public hearing on each environmental assessment and worksheet before adopting the capital improvement plan and program. The commission may consolidate hearings.

(c) The initial environmental assessments and worksheets must be completed before the commission adopts its capital improvement plan and program for calendar years 1989 to 1995, but the initial assessments and worksheets must extend to and incorporate projects under construction in calendar year 1988. A project that is under construction in 1988 may proceed, but the project must be included in the environmental review required by this section as if the project were scheduled for the succeeding calendar year. The commission is not required to prepare an environmental impact statement on an individual project, or to include a project in the scope of an environmental impact statement that the commission determines is needed, if: (1) the project is under construction in 1988, or (2) on April 27, 1988, the project is included in the commission's capital program for 1988 and 1989 and an environmental review is under way on the project individually under state or federal law.

Subd. 4. Other environmental review. Nothing in this section limits the responsibility of the commission or any other governmental unit or agency, under any other law or regulation, to conduct environmental review of any project, decision, or recommendation, except that the environmental assessment worksheets prepared under subdivision 2 satisfy the requirements under state law or rule for environmental assessment worksheets on individual projects covered by the worksheets prepared under subdivision 2.

History: 1988 c 664 s 2

473.621 POWERS OF CORPORATION.

Subdivision 1. [Repealed, 1977 c 417 s 14]

Subd. 1a. Relationship to legislature. The commission shall be held accountable to the legislature in its activities, plans, policies, and programs. It shall report each session to appropriate committees of the legislature as to its activities, plans, policies, and programs and shall make other reports and recommendations which the legislature or its committees deem appropriate. The commission shall adopt a long-term comprehensive plan for the Minneapolis-St. Paul International Airport. The plan must describe, in the degree of detail that the commission deems appropriate for at least a prospective ten-year period, the following:

- (1) aviation demand;
- (2) airport capacity, including environmental, runway, terminal, and other factors relevant to capacity;
- (3) a plan and financial estimates for physical development;
- (4) airport operational characteristics;
- (5) compatibility with the capacity of metropolitan and local physical facility systems;
- (6) environmental effects; and
- (7) the effect on the neighboring communities.

The plan must be submitted to the legislature by December 31, 1988, and be updated at least every five years thereafter. The plan is subject to sections 473.165 and 473.611.

Subd. 2. The corporation shall have the use, management, operation, regulation, policing, and control of any or all airports owned by either the city of Minneapolis or St. Paul, whether the airport or title thereto is held in the name of the city, the council, a board of park commissioners, or any other body. Consent by each city, the council, the board of park commissioners, and any other agency, board, or department thereof to the use, management, operation, regulation, policing, and control is conclusively presumed to have been given by the appointment of commissioners pursuant to the provisions of Laws 1943, chapter 500. Authority is granted to the mayor and council of each city and any board or commission having jurisdiction of airports in either city to give consent in that manner. The corporation may exercise all the powers granted to it with reference to any airport property over which it has jurisdiction pursuant to this subdivision, except the right of leasing or disposing of the fee title to the lands included therein, without the payment of any rental. The title to the fee of the land shall remain in the city, or agency, board, or department of the city. The action to be taken pursuant to this subdivision is declared to be necessary in order to provide an integrated airports system and enable the corporation to carry out the public and governmental purposes of Laws 1943, chapter 500. The corporation shall not close any existing airport in either city to air freight commerce consigned to or originating in the city unless and until it provides for the city freight airport facilities which are, in the judgment of the corporation and except as they may be restricted by government use, substantially equal to the existing freight airport facilities in safety and convenience to businesses and industries of the city. For the purpose of this subdivision, "airport" shall include only the lands, buildings, and equipment acquired for use primarily for any airport over which the corporation has jurisdiction pursuant to this subdivision.

Subd. 3. The authority in subdivision 2, granted to the corporation is not conditioned upon the receipt of any appropriation provided for in Laws 1943, chapter 500. Each city involved, or any board or commission of such city, shall pay the balance due on its bonds which have prior to the enactment of Laws 1943, chapter 500, been issued pursuant to law or charter to secure funds for the acquisition, establishment, construction, enlargement or improvement of the airports to be taken over as provided in subdivision 2, according to the terms of such bonds. The corporation created by Laws 1943, chapter 500, may, if it shall so determine, assume the payment of part or all of the balance due on such bonds at the time of its taking over the use, management, operation, regulation, policing and control of such airports.

Subd. 4. The corporation may provide, in addition to airports existing at the time of the passage of Laws 1943, chapter 500, at least one major or primary metropolitan airport which shall be as nearly equidistant from the city halls of both cities as possible. All other new airports to be constructed shall be so located that the airport system of the corporation as a whole shall be of substantially equal convenience to both cities. It shall put all airports and other facilities to their maximum use for passenger, mail, express, freight, and other air transportation operations as the needs therefor develop, and shall encourage the establishment of related aircraft industries.

Subd. 5. The investment of the cities of Minneapolis and St. Paul in the metropolitan airports system, from the date of the original enactment of this section to January

1, 1973, includes the land comprising airports owned by them and taken over pursuant to subdivision 2, and taxes levied on property within the cities in the years 1944 to 1969, the proceeds of which, together with revenues of the system and federal funds, were expended for the operation, administration, maintenance, improvement, and extension of the system and the service of debt incurred for such improvement and extension, including improvement of the city lands. The aggregate amount of such taxes was \$19,816,873, of which \$7,294,022 would have been assessed and extended against property outside the cities if the entire metropolitan area, which will be taxable by the corporation in 1974 and subsequent years under section 473.661, had been within its taxing jurisdiction when those levies were made. If it should become necessary for the corporation to levy any such taxes for any purpose other than the payment of bonds and interest, they shall be extended and assessed exclusively against taxable property outside the cities until the total amount so assessed and extended equals \$7,294,022. In the event that the airport land owned by either city should no longer be used for airport purposes, the corporation's control thereof shall cease, and title to the land and all improvements shall be and remain in the city, but the city shall become liable to the corporation for the repayment, without interest, of an amount of the taxes so paid which is proportionate to its own share of the cities' original investment, being 60 percent for Minneapolis and 40 percent for St. Paul. In the event that any other land or improvements owned or controlled by the corporation should ever cease to be used for airport purposes, all income therefrom and all proceeds received upon disposal thereof shall continue to be used for purposes of the metropolitan airports system, subject to federal laws and regulations governing such disposal; or if the operation of the system should ever be terminated, all such income and proceeds shall be distributed to the seven counties in the metropolitan area, in amounts proportionate to the gross tax capacity of taxable property in each county at the time of such distribution.

Subd. 6. All Minneapolis-St. Paul International Airport capital projects of the commission requiring the expenditure of more than \$5,000,000 shall be submitted to the metropolitan council for review. All other capital projects of the commission requiring the expenditure of more than \$2,000,000 shall be submitted to the metropolitan council for review. No such project which has a significant effect on the orderly and economic development of the metropolitan area may be commenced without the approval of the metropolitan council.

Subd. 7. **Capital projects.** For purposes of this section, capital projects having a significant effect on the orderly and economic development of the metropolitan area shall be deemed to be the following:

- (a) the location of a new airport,
- (b) a new runway at an existing airport,
- (c) a runway extension at an existing airport,
- (d) runway strengthening other than routine maintenance to determine compliance with federal air regulation part 36,
- (e) construction or expansion of passenger handling or parking facilities which would permit a 25 percent or greater increase in passenger enplanement levels,
- (f) land acquisition associated with any of the above items or which would cause relocation of residential or business activities.

History: 1975 c 13 s 103; 1977 c 417 s 9-11; 1984 c 561 s 2-4; 1987 c 223 s 3; 1988 c 719 art 5 s 84

473.622 EXISTING AIRPORTS; CONTROL, JURISDICTION.

The corporation shall exercise control and jurisdiction over any other airport within either 35 miles of the city hall of either city or within the metropolitan area. Control and jurisdiction of the corporation over any privately or publicly owned airport shall be limited to control and jurisdiction of the flight and traffic patterns of such airport in the interests of safety of the operation of any airport owned or operated by the corporation. No airport shall be acquired or operated within the metropolitan

area without first securing the approval of the corporation, provided, however, such approval shall not be withheld except after notice to all interested parties and a public hearing held thereon, as provided in section 360.018, subdivision 7, and then only upon a finding by the corporation that the acquisition or operation of such airport would create a flight hazard to any airport or airports owned or operated by it. As to any airport once licensed with the approval of the corporation, approval of the continued operation of such airport shall at no time be withdrawn by the corporation except after notice to all interested parties, a public hearing had, and a finding by the corporation based on substantial evidence that the operation of such airport is inconsistent with the safety of flight to and from an airport owned or operated or presently to be or being constructed to be operated by the corporation, and then only after payment of just compensation to cover the loss sustained by reason of such withdrawal, such just compensation, if not arrived at by agreement, to be ascertained in the condemnation of said airport by the corporation under the power of eminent domain, the commission to institute the condemnation proceedings promptly and to pay in connection with the prosecution thereof all reasonable and necessary expenses incurred not only by it but also by the owner of such airport.

History: 1975 c 13 s 104

473.625 DETACHMENT OF CERTAIN MAJOR AIRPORTS LAND FROM CITIES AND SCHOOL DISTRICTS.

Lands constituting any major airport or a part thereof now and which may hereafter be operated by any public corporation organized under sections 473.601 to 473.679, and embraced within any city or school district organized under the laws of the state, are hereby detached from such city or school district.

History: 1975 c 13 s 105

473.626 VALUATION AND ASSESSMENT OF TAXABLE PROPERTY IN DETACHED AREA.

The county assessor of the county in which the property is situated shall value and assess the taxable property in said area and shall report the same to the county auditor of the county in which such property is situated on or before October 1 of each year.

History: 1975 c 13 s 106; 1Sp1981 c 1 art 8 s 18

473.627 CERTIFICATION OF AMOUNT TO BE RAISED ON TAXABLE PROPERTIES IN AREA; IMPOSITION AND COLLECTION OF TAX.

The said commission shall on or before October 10 of each calendar year certify to the county auditor of said county, the amount determined by the commission to be raised on taxable properties within such territory to provide funds for policing and fire protection at and within said airport, and for the construction, maintenance and repair of streets and motor vehicle parking areas within such airport and the auditor shall extend, spread and include the same with and as a part of the general taxes for state and county purposes, to be collected and enforced therewith, together with penalties and interest and costs, and the county treasurer upon collection of the same, shall transfer the same to the treasurer of said public corporation.

History: 1975 c 13 s 107

473.629 VALUATION OF PROPERTIES FOR PURPOSE OF BOND ISSUES BY SCHOOL DISTRICTS.

As to any lands to be detached from any school district under the provisions hereof, notwithstanding such prospective detachment, the value of such lands and the gross tax capacity of taxable properties now located therein or thereon shall be and constitute from and after the date of the enactment hereof a part of the value of properties upon the basis of which such school district may issue its bonds, the value of such lands for such purpose to be 33-1/3 percent of the market value thereof as determined and

certified by said assessor to said school district, and it shall be the duty of such assessor annually on or before the tenth day of October from and after the passage hereof, to so determine and certify; provided, however, that the value of such detached lands and such taxable properties shall never exceed 20 percent of the value of all properties constituting and making up the basis aforesaid.

History: 1975 c 13 s 108; 1975 c 339 s 8; 1988 c 719 art 5 s 84

473.631 BOUNDARIES OF MAJOR AIRPORT.

The western boundary of any major airport located within Hennepin county shall not be extended by said corporation into the city of Richfield beyond Cedar Avenue as laid out as of the date of enactment of Laws 1953, Chapter 715; provided that nothing herein shall be or constitute a limitation upon the power of such corporation, now or hereafter given, to zone said airport and lands adjacent thereto by the enactment of an ordinance or otherwise.

History: 1975 c 13 s 109

473.633 [Repealed, 1977 c 447 art 6 s 13]

473.635 [Repealed, 1977 c 447 art 6 s 13]

473.636 NEW MAJOR AIRPORT; AIRPORT DEVELOPMENT AREA.

Subdivision 1. Metropolitan council; land use criteria and guidelines. Within 120 days after the selection by the metropolitan airports commission of a site in the metropolitan area for a new major airport to serve as a terminal for regular, scheduled air passenger service and the approval of the selection by the metropolitan council, the council shall adopt criteria and guidelines for the regulation of use and development of the airport development area, consisting of all or a portion of the property in the metropolitan area extending out three miles from the proposed boundaries of the site, or out five miles from the boundaries in any direction the council determines is necessary to protect natural resources of the metropolitan area. The criteria and guidelines must establish the boundaries of the airport development area and must include a statement of goals and policies to be accomplished by regulation of the use and development of property in the area. The criteria and guidelines may relate to all kinds of land use and development control measures, including zoning ordinances, building codes, subdivision regulations, and official maps. The criteria and guidelines must encourage controls for the use and development of property and the planning of public facilities to protect inhabitants of the airport development area from aircraft noise and to preserve natural underground water reservoirs and other natural resources of the metropolitan area. Those purposes are public purposes upon which land use and development control measures adopted by any government unit under law may be based. The criteria and guidelines must be a part of the metropolitan development guide when it is adopted, and the council shall mail a copy of the criteria and guidelines and any amendment to them to the governing body of each government unit having authority to adopt land use and development control measures applicable to the airport development area under sections 360.061 to 360.073, chapter 394, or chapter 462, or any other law; to the metropolitan airports commission; and to the state commissioner of transportation. The council may amend the criteria and guidelines from time to time, and shall reestablish the airport development area whenever the airport site boundaries are altered.

Subd. 2. Local zoning and land use and development controls. Upon the selection and approval of a site for a new major airport in the metropolitan area, all land within its airport development area not then zoned for other use is zoned for use exclusively for agricultural purposes, except that a prior nonconforming use established with reference to any lot or parcel of land may be continued and all land zoned by this subdivision for agricultural purposes may be rezoned by the appropriate government unit upon compliance with this subdivision. Thereafter the governing body of each government unit proposing to adopt or amend a land use and development control

measure applicable to the airport development area shall submit it to the metropolitan council for review, and within 120 days after receipt of the council's criteria and guidelines shall make and submit to the council for review whatever changes in its existing land use and development control measures it deems necessary to make them consistent with the criteria and guidelines. The council or a committee designated by it shall hold a hearing on the control measures submitted by each government unit within 60 days after they are submitted, on written notice mailed to the governing body of the government unit not less than 15 days before the hearing. At the hearing the government unit must be allowed to present all data and information that support the control measures submitted to the council. The council shall approve each measure or amendment within 120 days after it is received, with whatever changes it deems necessary to make it consistent with the criteria and guidelines, and the government unit submitting it shall take all actions necessary to put it into effect within 60 days after it is approved. If the council amends its criteria and guidelines, it must follow the procedures in this subdivision to ensure that applicable land use and development control measures are consistent with the amendment.

Subd. 3. Enforcement of local measures. After the selection and approval of a site for a new major airport in the metropolitan area, no public or private use contrary to subdivision 2 or any land use and development control measure then in effect may be made of the property to which it applies within an airport development area, and no government unit may issue a permit for the use, construction, alteration, or planting of any property, building, structure, or tree not in accordance with its general provisions, except for minor footage variances, until the council has approved changes or variances in the control measure in accordance with subdivision 2. After the council has approved a land use and development control measure in accordance with subdivision 2, no public or private use contrary to its provisions may be made of the property to which it applies; and no government unit may issue a permit for the use, construction, alteration, or planting of any property, building, structure, or tree not in accordance with its general provisions; and no special use permit or variance may be granted that authorizes a use or development contrary to the council's criteria and guidelines.

Subd. 4. Control measure review before site selection. After the metropolitan airports commission has called a hearing for the selection of a site for a new major airport in the metropolitan area under section 473.641, and until the commission has determined not to use the site described in the notice of hearing for a new major airport, the governing body of each government unit in the metropolitan area shall submit to the council for review and comment in accordance with section 473.175 any land use and development control measure, amendment, or variance applicable to or proposed for the site described in the notice of hearing or to any property within five miles of the site. During the period described in this subdivision, no government unit may construct a public building or facility on the proposed airport site or within five miles of it until it has submitted its plan for the building or facility to the metropolitan council for review and comment as provided in this subdivision.

History: 1986 c 460 s 47

473.637 AIRCRAFT NOISE ZONES.

Within 120 days after the selection and approval of a site for a new major airport in the metropolitan area, the metropolitan council shall determine the probable levels of noise that will result in various parts of the metropolitan area from the operation of aircraft using the site, shall establish aircraft noise zones based on that determination and applicable to property affected by the noise, and shall establish acceptable levels of perceived noise decibels for each land use, using the composite noise rating method and tables or the noise exposure forecast method and tables. Each government unit having power to adopt land use and development control measures applicable to property included in any aircraft noise zone shall adopt or incorporate in existing land use and development control measures the applicable acceptable level of perceived noise decibels established by the council, and shall adopt whatever other control

measures may be necessary to prevent the use, construction, or improvement of property and buildings subject to a level of perceived noise decibels in excess of the acceptable level established for that land use. The council shall mail a map showing the aircraft noise zones and a copy of the applicable acceptable levels of perceived noise decibels to the governing body of each government unit having authority to adopt land use and development control measures applicable to property in each aircraft noise zone, to the metropolitan airports commission, and to the state commissioner of transportation. The control measures adopted by a government unit to comply with this section must be submitted to and approved by the council and placed into effect by the government unit as provided in section 473.636, subdivision 2. The council may change the aircraft noise zones and the applicable acceptable levels of perceived noise decibels to conform with the actual levels of noise produced by aircraft using the airport site when it is in operation, and may require changes in control measures applicable to airport noise zones to conform with changes made by it. No property may be used, and no building or other structure may be constructed or improved, within any aircraft noise zone if persons using the property and buildings would be subjected to a level of perceived noise decibels in excess of the acceptable level established by the council for that land use.

History: 1986 c 460 s 48; 1Sp1986 c 3 art 2 s 4

473.638 CONTROL MEASURE INVOLVING TAKING; CONDEMNATION BY METROPOLITAN AIRPORTS COMMISSION.

Subdivision 1. Eminent domain. If either the provisions or the application of section 473.636, subdivision 2, or any land use and development control measure applicable to public or private property in an airport development area is determined by a court of competent jurisdiction to constitute a taking, the metropolitan airports commission in the exercise of its power to acquire lands for the airport has the power to acquire the property or any similar property, or an interest in it, to the extent needed for the application of the measure, by eminent domain exercised in accordance with chapter 117. The right of eminent domain must be exercised if the commission has or will have funds to pay the condemnation award and the council determines that it is necessary to protect the airport from encroachment or hazards, to protect residents in the area, to encourage the most appropriate use of property in the airport development area, or to protect and conserve the natural resources of the metropolitan area.

Subd. 2. Retention or sale of property. The commission may retain any property now owned by it or acquired under subdivision 1 and use it for a lawful purpose, or it may provide for the sale or other disposition of the property in accordance with a redevelopment plan in the same manner and upon the same terms as the housing and redevelopment authority and governing body of a municipality under the provisions of section 469.029, all subject to the provisions of section 473.636, subdivision 2, or to existing land use and development control measures approved by the council.

Subd. 3. Sharing of costs. The metropolitan airports commission and any other government unit in the metropolitan area may enter into an agreement under which the cost of acquiring a property and the proceeds from the sale or other disposition of it under subdivision 2 are to be shared by the commission and such government unit. The commission, the metropolitan council, or any government unit may also enter into any agreements with the United States or the state of Minnesota, or any agency or subdivision of either, and do all acts and things required by state or federal law or rules as a condition or consideration for the loan or grant of funds or property for the purpose of land acquisition or improvement under subdivisions 1 and 2.

History: 1986 c 460 s 49; 1Sp1986 c 3 art 2 s 5; 1987 c 291 s 231

473.639 RELATION TO AIRPORT HAZARD ZONING.

Sections 473.636 and 473.637 and any criteria, guidelines, or land use and development control measure approved by the council under those sections in no way supersede or limit the powers conferred on a municipality to do airport hazard zoning,

or the commissioner of transportation by sections 360.061 to 360.073. Any criteria, guidelines, or land use and development control measure approved by the council under section 473.636 or 473.637 must be consistent with any exercise of powers by the commissioner under sections 360.061 to 360.093.

History: 1986 c 460 s 50; 1Sp1986 c 3 art 2 s 6

473.64 GOVERNMENT UNITS IN AIRPORT DEVELOPMENT AREA; TAX SHARING.

The governing bodies of government units located wholly or partly in an airport development area shall jointly study and decide upon a plan for the sharing of property tax revenues derived from property located in an airport development area. If 80 percent of the government units having territory within the airport development area agree upon a plan, the plan is effective, and all government units shall enter into whatever agreements may be necessary for this purpose. The plan, however, may not impair the existing contract obligations of any government unit. This section does not apply to the metropolitan airports commission or the council.

History: 1986 c 460 s 51

473.641 NEW AIRPORT; PUBLIC HEARING.

Subdivision 1. In determining whether a new airport shall be acquired or established or an existing airport expanded by the acquisition of an annexation thereto of additional lands, the corporation shall, before taking any action thereon, hold a public hearing in accordance with the procedure set forth in this act; and in reaching such determination, the corporation shall take into consideration the objectives of the act as set forth in section 473.602; and shall take into consideration the use or uses to be made of the new airport or the use or uses to be made of the lands to be acquired and annexed to an existing airport, and shall take into consideration the effect the acquisition or establishment of the new airport will have upon the residents and properties in the area surrounding such new airport, or, in the case of the acquisition and annexation of lands to an existing airport, the effect such acquisition and annexation will have on residents and properties in the area surrounding such lands; and with respect to the new airport to be acquired or established, the commission shall take into consideration, in addition to the foregoing, the adequacy of present airport facilities in the area over which the corporation has jurisdiction, the nature of the terrain at the site thereof and in the vicinity of such site, whether there are safe areas available for expansion purposes, and whether the adjoining area is free from obstructions based on a proper glide ratio; and to aid the commission in giving consideration to such objectives and factors, and in reaching such determination, evidence may be offered and shall be received as to such objectives and factors at the public hearing herein provided for.

Subd. 2. Except as provided in subdivision 1, public hearings are not required for alterations, improvements or developments, whether or not contracted for, of any airport under the jurisdiction of the corporation, including but not limited to the addition of structures and facilities for use of or lease to others by the corporation.

Subd. 3. The metropolitan airports commission shall not initiate land acquisition for a new major airport without explicit authorization from the legislature.

Subd. 4. Notwithstanding any other law, the metropolitan airports commission shall not use revenue from any source, as described by section 473.608, for construction of air facilities to expand or upgrade the use of an existing metropolitan airport from minor use to intermediate use status as defined by the metropolitan development guide, aviation chapter, adopted pursuant to section 473.145.

History: 1975 c 13 s 112; 1977 c 417 s 12; 1980 c 614 s 154

473.651 RENTALS FIXED.

The corporation shall have the authority to determine the charges for the use of any of the property under its management and control, and the terms and conditions

under which such property may be used. Where there is reasonable basis for classification of users as to any use, the corporation may classify users, but charges as to each class shall be reasonable and uniform for such use, and established with due regard to the value of the property and improvements used and the expense of operation to the corporation. The corporation shall have and may enforce liens as provided for in sections 514.18 to 514.22, to enforce the payment of any such charges.

History: 1975 c 13 s 113

473.652 CONSTRUCTION WORK.

Subdivision 1. The provisions of section 471.345, subject to the provisions of subdivision 2, shall apply to all construction work and every purchase of equipment, supplies, or materials necessary in carrying out the provisions of sections 473.601 to 473.679.

Subd. 2. If the executive director of the corporation with the written concurrence of the chair or vice-chair declares that an emergency exists requiring immediate purchase of material or supplies or the making of emergency repairs at a cost of no more than \$5,000, or if two-thirds of the members of the corporation declare that an emergency exists requiring immediate purchase of materials or supplies or the making of emergency repairs at a cost in excess of \$5,000, the corporation shall not be required to advertise for bids. The materials or supplies may be purchased in the open market at the lowest price obtainable, or the emergency repairs may be contracted for or performed without securing formal competitive bids.

History: 1975 c 13 s 114; 1977 c 417 s 13; 1986 c 444

473.653 RESTRICTIONS ON CERTAIN AIRPORTS.

The metropolitan airports commission shall not take any action with respect to an airport owned by it that would result in a permanent net reduction in usable runway length at the airport. Retention of existing usable runway length at an airport owned by the metropolitan airports commission shall not cause the airport to be reclassified from a minor use to an intermediate use airport.

History: 1983 c 301 s 232

473.655 PUBLIC AND GOVERNMENTAL PURPOSES.

It is hereby determined and declared that the purposes of sections 473.601 to 473.679 are public and governmental; that the development of the metropolitan airports system by the corporation be consistent with the airport chapter of the metropolitan council's development guide and promote the public safety and welfare of the state; and that the development, extension, maintenance, and operation of the system in such a manner as to assure the residents of the metropolitan area of the minimum environmental impact from air navigation and transportation, with provision for noise abatement, control of airport area land use, and other protective measures, is essential to the development of air navigation and transportation in and through this state, and is necessary in order to assure the inclusion of this state in national and international systems of air transportation, benefits the people of the state as a whole, renders a general public service, and provides employment, and is of great public economic benefit.

History: 1975 c 13 s 115

473.661 BUDGET.

Subdivision 1. The commissioner shall, on or before the first day of July of each year, prepare a detailed budget of the needs of the corporation for the next fiscal year, specifying separately in said budget the amounts to be expended for acquisition of property, construction, payments on bonded indebtedness, if any, operation, and maintenance, respectively, subject only to such changes as the commissioners may from time to time approve.

Subd. 2. The commissioners shall on or before October 10th of each calendar year, certify to the county auditor of each county in the metropolitan area the total amount to be raised by the commissioners during the next calendar year through taxation, and each county auditor shall extend and assess against all property in the auditor's county which is then taxable by the corporation for the purpose for which the levy is made under the provisions of section 473.621, subdivision 5, that sum which bears the same proportion to the total amount as the gross tax capacity of such taxable property bears to the gross tax capacity of all property in the metropolitan area which is then taxable by the corporation for the purpose for which the levy is made. The county auditor shall extend, spread, and include the same with and as a part of the general taxes for state, county, and municipal purposes, to be collected and enforced therewith, together with penalties and interest and costs, and the county treasurer, upon collection of the same, shall transfer the same to the treasurer of the corporation.

Subd. 3. In any budget certified by the commissioners, pursuant to any of the provisions of this section, the amount included for operation and maintenance shall not exceed an amount which, when extended against the gross tax capacity of property then taxable therefor under the provisions of section 473.621, subdivision 5, will require a levy at the rate of one-third of one mill upon such gross tax capacity. Taxes levied by the corporation shall not affect the amount or rate of taxes which may be levied by any other local government unit within the metropolitan area under the provisions of any law or charter.

History: 1975 c 13 s 116; 1986 c 444; 1988 c 719 art 5 s 84

473.662 EARNINGS, HOW APPLIED.

The earnings of the corporation shall be applied as follows: (a) to the payment of interest on its bonds and of any principal of such bonds which is due and payable; (b) to the establishment of a sufficient fund to pay interest and principal on its bonds which will be payable in the following fiscal year; and (c) to the other purposes set out in section 473.608, subdivision 13. If the amount included in the budget for any year, including the sum necessary to make payment of interest on and principal of bonds in the ensuing fiscal year is not sufficient to meet the needs of the corporation for that year, any deficit shall be included in the budget of the corporation for the following year.

History: 1975 c 13 s 117

473.665 BONDS, ISSUANCE.

Subdivision 1. In anticipation of the receipt by the corporation of payments by cities herein provided for, appropriations, rents, and profits, and of income from any other source, and for the purpose of securing funds as needed for the payment of the cost of property acquired, airports constructed and purchased, and other purposes herein authorized, the corporation is hereby authorized to issue its bonds in an aggregate principal amount not exceeding \$125,000,000, bearing interest at a rate not to exceed five percent per annum, payable semiannually. Notwithstanding any provision to the contrary included within the charter of either city or any general or special law of the state of Minnesota they may be issued and sold without a vote upon said question by electors of either city.

Subd. 2. Such bonds shall be of such date, denominations, place of payment, form, and details as may be determined by such corporation, not inconsistent with the provisions of sections 473.601 to 473.679. They shall mature serially, the first installment to fall due in not more than three years and the last in not more than 30 years from their date, and no annual maturing installment shall exceed by five times the amount of the smallest annual maturing installment; provided, that the amount of such installments of principal may be such that the increase thereof from year to year shall approximately equal the decrease from year to year in the interest of the bonds remaining unpaid. Any bond may reserve the right of its redemption and prepayment at a date or dates fixed therein at par and accrued interest or at such premium and upon such notice as shall be determined by the corporation prior to the issuance of the bond.

Subd. 3. The bonds shall be signed by the chair, attested by the secretary and countersigned by the treasurer, of the corporation. The interest coupons to be thereto attached shall be executed and authenticated by the printed, engraved or lithographed facsimile signatures of the chair and secretary. The signatures of at least one of the officers signing the bonds shall be manual but those of the others may be printed, engraved or lithographed facsimiles. The validity of bonds or coupons so executed shall remain unimpaired by the fact that one or more of such officers shall have ceased to be in office before their delivery to the purchaser or shall not have been in office on the formal date of the bonds. Section 475.60, in so far as applicable, shall apply to the negotiation and sale of the bonds. They shall not impose any personal liability upon any member of the corporation.

Subd. 4. The bonds shall be secured by pledge of the full faith, credit, and resources of the cities in and for which the corporation has been created. The corporation is hereby authorized to pledge such full faith, credit, and resources, and specific consent thereto by each city shall be conclusively presumed from the appointment of commissioners by the council thereof. They shall be paid from tax levies as hereinafter provided, and from earnings of the corporation, or may be secured by mortgage or deed of trust on any of the property owned by the corporation. As to bonds negotiated and sold independent of the original \$15,000,000 authorization plus \$5,000,000, however, the proceeds derived therefrom shall be used by the corporation only for the acquisition of lands, if acquisition of additional lands be necessary, and the construction upon lands, either to be acquired or already acquired, of such revenue producing airport facilities as will be, in the considered judgment of the commissioners of the corporation, self-liquidating over the useful life of such facilities; and such facilities shall be covered by such contracts or by such charges as such commissioners shall establish for the use thereof as will, in the considered judgment of such commissioners, make such facilities self-liquidating; and before the negotiation and sale of any such bonds, such commissioners shall by resolution find, determine and declare that the facilities for which the bonds are to be issued will to the best of their judgment be self-liquidating. The corporation may in like manner issue and sell bonds for the purpose of refunding any bonds theretofore issued in accordance with this section which by their terms are prepayable at the time of such refunding; and such refunding bonds shall not be included in computing the foregoing limits on amounts of bonds issuable by the corporation.

Subd. 5. The corporation, upon issuing any bonds under the provisions of this section, shall, before the issuance thereof, levy for each year, until the principal and interest are paid in full, a direct annual tax on all the taxable property of the cities in and for which the corporation has been created in an amount not less than five percent in excess of the sum required to pay the principal and interest thereof, when and as such principal and interest matures. After any of such bonds have been delivered to purchasers, such tax shall be irrevocable until all such indebtedness is paid, and after the issuance of such bonds no further action of the corporation shall be necessary to authorize the extensions, assessments, and collection of such tax. The secretary of the corporation shall forthwith furnish a certified copy of such levy to the county auditor or county auditors of the county or counties in which the cities in and for which the corporation has been created are located, together with full information regarding the bonds for which the tax is levied, and such county auditor or such county auditors, as the case may be, shall enter the same in the register provided for in section 475.62, or a similar register, and shall extend and assess the tax so levied. If both cities are located wholly within one county, the county auditor thereof shall annually extend and assess the amount of the tax so levied. If the cities are located in different counties, the county auditor of each such county shall annually extend and assess such portion of the tax levied as the gross tax capacity of the taxable property, not including moneys and credits, located wholly within the city in such county bears to the total gross tax capacity of the taxable property, not including moneys and credits, within both cities. Any surplus resulting from the excess levy herein provided for shall be transferred to a sinking fund after the principal and interest for which the tax was levied and collected

has been paid; provided, that the corporation may, on or before October 15 in any year, by appropriate action, cause its secretary to certify to the county auditor, or auditors, the amount on hand and available in its treasury from earnings, or otherwise, including the amount in the sinking fund, which it will use to pay principal or interest or both on each specified issue of its bonds, and the county auditor or auditors shall reduce the levy for that year, herein provided for by that amount. The amount of funds so certified shall be set aside by the corporation, and be used for no other purpose than for the payment of the principal and interest of the bonds. All taxes hereunder shall be collected and remitted to the corporation by the county treasurer or county treasurers, in accordance with the provisions of law governing the collection of other taxes, and shall be used solely for the payment of the bonds where due.

Subd. 6. This section shall not be construed as limiting the power of the corporation to levy taxes to pay its bonds issued hereunder but such corporation shall have the authority and it shall be its duty to levy any taxes necessary to provide revenue to pay such bonds.

Subd. 7. The treasurer may destroy all redeemed bonds and coupons issued by the commission which have been on file in the treasurer's office for more than six years.

History: 1975 c 13 s 118; 1986 c 444; 1988 c 719 art 5 s 84

473.666 BONDS, LEGAL INVESTMENTS FOR PUBLIC FUNDS.

Bonds legally issued pursuant to sections 473.601 to 473.679 or acts amendatory thereof or supplemental thereto, may be purchased by the state board of investment for the permanent school fund, permanent university fund, swamp land fund, internal improvement land funds, or any other trust fund of the state of Minnesota, or for any other fund administered by such board, and shall be deemed authorized securities within the provisions of section 50.14, and shall be proper for the investment of capital, surplus, or deposits of any savings bank or trust company, and for the investment of funds of any insurance company, and for the investment of any sinking funds held by any public or municipal corporation, and may be pledged by any bank or trust company as security for the deposit of public moneys therein in lieu of surety bonds. The bonds shall be deemed and treated as instrumentalities of a public government agency.

History: 1975 c 13 s 119; 1983 c 213 s 24

473.667 GENERAL OBLIGATION REVENUE FINANCING.

Subdivision 1. **Scope.** The metropolitan airports commission shall have all the powers and duties set forth in this section, in addition to the powers granted and the duties imposed and notwithstanding any limitations of such powers set forth in any other law or city charter provision. These powers and duties are likewise granted to and imposed upon any successor public corporation, agency, or subdivision of the state in which the commission's property, rights, powers, obligations, and duties, or any of them, may in the future be vested by law.

Subd. 2. **Borrowing authorization.** No additional bonds shall be issued under the provisions of section 473.665, over and above the amount outstanding April 1, 1974. Except for refunding bonds and certificates of indebtedness, the principal amount of bonds that may be issued under this section, over and above the amount of bonds of the commission outstanding January 15, 1988, is limited to \$150,000,000 until and unless this limitation is increased by law. The pledge of revenues of the commission to its debt service fund in lieu of the taxes otherwise required by section 473.665 to be assessed and extended shall be and remain a first charge on all current revenues of the commission to the extent required annually to cancel such taxes.

Subd. 3. **General obligation revenue bonds.** Subject to the provisions of subdivision 2 the commission may issue bonds for the acquisition and betterment of airports and air navigation facilities, and for the refunding of such bonds and of certificates of indebtedness issued under subdivision 10, in the same manner and with the same powers and duties as a municipality under the provisions of chapter 475 except as

otherwise provided in this section. The bonds shall be designated as general obligation revenue bonds, and shall be payable primarily from and secured under resolutions of the commission by an irrevocable pledge and appropriation of the revenues to be derived from rates, fees, charges, and rentals to be imposed, maintained, and collected for all use, service, and availability of airport and air navigation facilities owned and to be owned or operated by the commission. They shall be further secured by the pledge of the full faith and credit of the commission, which shall be obligated to levy upon all taxable property within the metropolitan area a tax at such times and in such amounts, if any, as may be required to provide funds sufficient to pay all of the bonds and interest thereon when due and to maintain a reserve securing such payments in the manner and to the extent provided in this section. This tax, if ever required to be levied, shall not be subject to any limitation of rate or amount. The security afforded by this section extends equally and ratably to all general obligation revenue bonds of the commission, except that nothing herein shall prevent the commission from pledging current revenues from a particular facility or group of facilities first to the payment and security of bonds issued to finance such facilities.

Subd. 4. Debt service fund. The commission shall maintain permanently on its official books and records an account or accounts referred to herein collectively as the debt service fund, separate from all other funds and accounts, to record all receipts and disbursements of money for principal and interest payments on its bonds, and on certificates of indebtedness issued pursuant to subdivision 10. At or before the due date of each principal and interest payment on said bonds and certificates the treasurer shall remit from the debt service fund to the payment agent for the issue an amount sufficient for such payment, without further order from the commission. At or before the time of delivery of any series of bonds the commission shall withdraw from the proceeds thereof, or from revenues then on hand and available for the purpose, and shall deposit in the debt service fund such amount, if any, as may be required to establish in the fund a balance of cash and investments at least equal to the total amount of principal and interest then due and to become due on bonds of the commission to the end of the following year, but not exceeding the total amount of principal and interest then due and to become due on bonds of the commission to the end of the second following year. The commission shall also deposit in the fund on or before October 10 in each year, from revenues received in excess of budgeted current expenses of operation and maintenance of its property and of carrying on its business and activities, or from other available moneys, amounts at least sufficient to permit cancellation of the taxes referred to in subdivision 2 and to pay principal and interest due on the following year on general obligation revenue bonds of the commission; and, to the extent determined by the commission, sufficient to produce a balance of cash and investments therein not exceeding the total amount of principal and interest due and to become due on all bonds of the commission to the end of the second following year. If such revenues or other available moneys are insufficient in any year to produce the required minimum balance or any larger balance established by the commission, then unless provision is made for restoring the deficiency in accordance with the provisions of subdivision 8, the commission shall levy and appropriate to the debt service fund, and certify to the county auditors of all counties in the metropolitan area, a tax in accordance with subdivision 3 in an amount at least five percent in excess of the deficiency. For the purpose of determining the balance in the debt service fund at any time, investments held therein shall be valued at the principal amount payable at maturity if they mature in the following year, or otherwise at market value, plus the amount of interest receivable thereon to the end of the following year.

Subd. 5. Rates, fees, charges, and rentals. The commission shall be obligated to the holders of its bonds, and to the owners of all property subject to taxation for the payment thereof, to establish, revise from time to time, and collect rates, fees, charges, and rentals for all airport and air navigation facilities and service used by and made available to any person, firm, association, or corporation according to schedules such as to produce revenues at all times sufficient for the requirements of the debt service fund as provided in subdivision 4, and sufficient also to pay when due all expenses of

operation and maintenance of the commission's property and of carrying on its business and activities in accordance with law. The payment of such rates, charges, fees, and rentals by any party for the use of any facility or service for any period, other than use permitted to the public generally, shall be secured by a lease or other agreement requiring such party to pay each year an amount sufficient to provide for the payment of a share of the principal and interest due during this period on all bonds of the commission, proportionate to the amount of such bonds issued to provide the facility or service and to the amount of use thereof assured to such party in comparison with others. If a tax is ever required to be levied for a debt service fund deficiency under the provisions of subdivision 4, the commission shall immediately take all action permitted by law and under its leases and other agreements to enforce the payment of rates, fees, charges, and rentals then due, and to raise the amounts thereof payable in the future to the extent required for conformity with subdivision 4 and for repayment of the deficiency with interest at six percent per annum.

Subd. 6. Reimbursement of debt service fund deficiencies. If a debt service fund deficiency tax is ever certified in accordance with subdivision 4, each county auditor shall extend it on the tax roll of the auditor's county in that proportion which the gross tax capacity of taxable property within the county then bears to the gross tax capacity of all taxable property within the metropolitan area, and shall certify to the commission the amount so extended. Thereafter the commission shall be obligated to repay to the treasurer of each county the amount extended upon its tax roll with interest at six percent per annum from the dates of payment of the deficiency tax to the commission to the date or dates of repayment. The commission shall certify to each county auditor the principal amount to be so paid to the county before October 10 in each subsequent year, and the county auditor shall reduce by this amount the taxes levied by the county which are to be extended upon its tax rolls then in preparation.

Subd. 7. Conditions. Bonds of the commission shall not be conditioned upon an election, but no bonds shall be issued at any time, except for refunding in the cases described in subdivision 8, unless the required balance in the debt service fund is first established in accordance with subdivision 4, and the commission determines on one of the bases described in this subdivision that the revenues to be received by it each year during the term of the proposed issue will be at least sufficient to pay when due all of the commission's bonds and interest thereon, including the new issue but excluding any bonds refunded thereby, and to establish the balance required in the debt service fund by October 10. Before the bonds are delivered to the purchaser, the commission shall secure either:

(a) A report of audit of the commission's financial records for the fiscal year most recently ended or, if this is not yet available, a report for the preceding year, prepared by a nationally recognized firm of certified public accountants, showing that the net revenues received that year, computed as the gross receipts less any refunds of rates, fees, charges, and rentals for airport and air navigation facilities and service, less the aggregate amount of current expenses, paid or accrued, of operation and maintenance of property and carrying on the commission's business and activities, equaled or exceeded the maximum amount of then outstanding bonds of the commission and interest thereon to become due in any future fiscal year; or

(b) A lease or other agreement or agreements for the operation or use by one or more airline corporations of the facility for which the bonds are proposed to be issued, requiring such corporation or corporations to pay all costs of operation and maintenance thereof and to pay additional rentals or charges at the times and in not less than the amounts required to pay all of the bonds and interest thereon when due and to establish the annual balance required in the debt service fund to secure such payments, together with a report of audit showing net revenues fulfilling the condition in clause (a) as to all other bonds then outstanding or then to be issued; or

(c) A written report prepared by a nationally recognized consultant on airport management and financing, projecting gross receipts, current expenses, and net revenues at least sufficient during each year of the term of the proposed bonds to pay all

principal and interest due on all bonds and to establish and maintain the required annual debt service fund balance, and stating the estimates of air traffic, rate increases, inflation, and other factors on which the projection is based.

Subd. 8. Refunding deficiencies. If in any year the revenues available for transfer to the debt service fund are or will in the judgment of the commission be insufficient to produce the balance required thereon on October 10 under the provisions of subdivision 4, or to make any interest or principal payment due on certificates of indebtedness issued under the provisions of subdivision 10, the commission may, with the approval of the council, issue refunding bonds and appropriate the proceeds to the debt service fund in the amount needed to restore the deficiency, provided that the refunding bonds shall not mature earlier than the date or dates when the commission estimates that the revenues from enforced or increased rates, fees, charges, and rentals will be sufficient to pay them and to meet all other requirements of the debt service fund as stated in subdivision 4.

Subd. 8a. Refunding bonds. The commission may issue general obligation revenue refunding bonds to refund bonds issued pursuant to subdivision 2 in accordance with section 475.67, subdivisions 1 to 11.

Subd. 9. Additional taxes. Nothing herein shall prevent the commission from levying a tax not to exceed in any year 1/20 of one mill on the gross tax capacity of taxable property within its taxing jurisdiction, over and above any levies found necessary for the debt service fund as authorized by section 473.671. Nothing herein shall prevent the levy and appropriation for purposes of the commission of any other tax on property or on any income, transaction, or privilege, when and if authorized by law. All collections of any taxes so levied shall be included in the revenues appropriated for the purposes referred to in this section, unless otherwise provided in the law authorizing such levies; but no covenant as to the continuance or as to the rate and amount of any such levy shall be made with the holders of the commission's bonds unless specifically authorized by law.

Subd. 10. Emergency borrowing. If in any budget year revenue receipts should from any unforeseen cause become insufficient to pay budgeted current expenses, or if a public emergency should necessitate expenditures in excess of revenues anticipated to meet the current budget, the commission may make an emergency appropriation sufficient to meet the deficiency and may authorize the issuance and sale of general obligation certificates of indebtedness in this amount, maturing not later than October 10 in the following budget year, at public or private sale and upon such other terms and conditions as the commission may determine. The principal of and interest on such certificates of indebtedness, unless paid from other revenues, shall be payable from the debt service fund.

History: 1975 c 13 s 120; 1978 c 531 s 1-3; 1980 c 450 s 1; 1981 c 27 s 1; 1986 c 444; 1988 c 664 s 3; 1988 c 719 art 5 s 84

473.668 MUNICIPALITIES TO GUARANTEE BONDS OF COMMISSION.

Bonds issued pursuant to the provisions of sections 473.601 to 473.679, by either city shall be secured by the full faith, credit, and resources of the city issuing them, shall be paid from tax levies made in conformity with sections 475.61 and 475.74, and shall be sold in the manner prescribed by section 475.60. No provision of any existing law or special or home rule charter under which either city may be acting shall be deemed or construed to impair, curtail, or limit in amount, form, or manner the power to issue any bonds pursuant to sections 473.601 to 473.679, and the bonds issued by either city or by the corporation pursuant to sections 473.601 to 473.679, shall not be included in computing the net indebtedness of such municipality under any applicable law or charter.

History: 1975 c 13 s 121

473.671 LIMIT OF TAX LEVY.

The taxes levied against the property of the metropolitan area in any one year shall not exceed one-third of one mill upon the gross tax capacity thereof, exclusive of the taxes it may be necessary to levy to pay the principal or interest on any bonds or indebtedness of said city issued by it under the provisions of Laws 1943, chapter 500, and exclusive of any amounts required to pay the share of such city for payments on bonded indebtedness of the corporation provided for in Laws 1943, chapter 500. The levy of taxes authorized in Laws 1943, chapter 500, shall be in addition to the maximum rate allowed to be levied to defray the cost of government under the provisions of the charter of any city affected by Laws 1943, chapter 500.

History: 1975 c 13 s 122; 1988 c 719 art 5 s 84

473.672 METROPOLITAN AREA TAX LEVY.

Notwithstanding the provisions of section 473.671 or any other provision of sections 473.601 to 473.679, any tax levy required to be made to pay debt service on any bonds heretofore or hereafter issued by the commission shall not be restricted to the cities of Minneapolis and St. Paul but shall be levied against all the taxable property in the metropolitan area in accordance with the provisions of section 473.667.

History: 1975 c 13 s 123

473.675 LEGAL PROCEEDINGS.

Subdivision 1. Certiorari. A review of any order of the commission may be had upon certiorari in the district court of Ramsey county upon petition of any party to the proceedings before the commission. The court may, in its discretion, stay the operation of the order sought to be reviewed for such time and on such terms as it deems advisable.

Subd. 2. Bonds, when required in public airports litigation. When any action or proceeding at law or in equity has been or shall hereafter be commenced questioning the right, power, or authority of a public corporation created and operating under sections 473.601 to 473.679 to make or perform any contract for the development or improvement of an airport under its control and operation or the structures or facilities thereon or contemplated therefor, or to issue, sell, or deliver the corporations' bonds to pay therefor, the corporation may, if it deems that the pendency of such litigation might, directly or indirectly, delay the completion of such improvement or bond issue or otherwise be injurious to the public interests and taxpayers, move the court in which the litigation is pending to require the party or parties who instituted the same to give a surety bond in accordance with subdivisions 2 to 5.

Subd. 3. Special appearance in litigation by public airports corporation. If the corporation is not a party to the litigation, it may appear specially for the purpose of making and being heard on such a motion. Three days' notice of hearing on the motion shall be given. If the court determines that loss or damage to the public or taxpayers may result from the pendency of the action or proceeding, the court may require the party or parties who instituted the same to give a surety bond, approved by the court or judge, in a penal sum to be determined by the court to protect against such loss or damage, whether or not a temporary injunction or restraining order against the corporation shall have been demanded or ordered. If the bond so ordered be not filed within the reasonable time allowed therefor by the court, the action or proceeding shall be dismissed with prejudice. Such bond shall be executed by the party who instituted the litigation, or some person for the party, as principal and conditioned for the payment to the corporation of such damage as the public and taxpayers shall sustain by reason of the litigation, if the court finally decides that the party or parties were not entitled to the relief sought. The amount of damages may be ascertained by a reference or otherwise as the court shall direct, in which case the sureties shall be concluded as to the amount but the damages shall be recoverable only in an action on the bond. If the party or parties by or for whom such bond is furnished prevails in the litigation, the

premium paid on the bond shall be repaid by or taxed against the corporation. During the pendency of the litigation, the court, on motion, may require additional security if found necessary, and upon failure to furnish the same shall dismiss the action or proceeding with prejudice. The court may likewise, on motion, reduce the amount of a bond theretofore required or release the bond upon being shown that the amount is excessive or the bond no longer required.

Subd. 4. Appeals. In litigation where a bond has been required and given under subdivision 3 or the court has denied a motion to require a bond, the court shall advance the case on its calendar for trial at the earliest feasible date. An appeal from an appealable order made, or from a judgment entered, in a district court may be taken only within 30 days after entry of judgment or after written notice of the order from the adverse party.

Subd. 5. Civil damage actions. Nothing contained in this section shall affect the rights of any aggrieved person to bring a suit for civil damages. No bond shall be required therein except as otherwise provided by law.

History: 1975 c 13 s 124; 1983 c 247 s 161; 1986 c 444

473.679 CONSTRUCTION OF LAW.

Sections 473.601 to 473.679, shall not be construed so as to abridge any of the powers granted by law to the Minnesota aeronautics commission.

History: 1975 c 13 s 125

MOSQUITO CONTROL

473.701 DEFINITIONS.

Subdivision 1. As used in sections 473.701 to 473.716, the terms defined in this section have the meanings given them.

Subd. 2. "District" means the metropolitan mosquito control district created by section 473.702.

Subd. 3. "Commission," unless otherwise specified, means the metropolitan mosquito control commission created by section 473.702.

Subd. 4. "Commissioner" means a member of the commission.

Subd. 5. [Repealed, 1982 c 579 s 9]

Subd. 6. [Repealed, 1982 c 579 s 9]

History: 1975 c 13 s 126; 1982 c 579 s 1-3

473.702 ESTABLISHMENT OF DISTRICT; PURPOSE; AREA; GOVERNING BODY.

A metropolitan mosquito control district is created to control mosquitoes and black gnats (*Simuliidae*) in the metropolitan area defined in section 473.121. The area of the district is the metropolitan area excluding the part of Carver county west of the west line of township 116N, range 24W, township 115N, range 24W, and township 114N, range 24W. The metropolitan mosquito control commission is created as the governing body of the district, composed and exercising the powers as prescribed in sections 473.701 to 473.716.

History: 1975 c 13 s 127; 1982 c 579 s 4; 1983 c 129 s 1

473.703 COMMISSION.

Subdivision 1. The district shall be operated by a commission which shall consist of three members from Anoka county, one member from Carver county, three members from Dakota county, three members from Hennepin county, three members from Ramsey county, two members from Scott county, and two members from Washington county. Commissioners shall be members of the board of county commissioners of

their respective counties, and shall be appointed by their respective boards of county commissioners.

Subd. 2. The terms of the members of the first commission shall expire on December 31 next following their appointment. Thereafter the terms of the commissioners shall be one year commencing on January 1 of each year.

Subd. 3. If a vacancy occurs on the commission, it shall be filled by the appropriate board of county commissioners.

Subd. 4. A person appointed to the commission shall qualify as a commissioner by filing with the director of the commission a written certificate of appointment from the person's county auditor, together with a written acceptance of appointment from the county auditor, together with a written acceptance of the appointment; provided that the members of the first commission shall file in the office of the county auditor of Hennepin county.

Subd. 5. The commission shall meet on the first Thursday after the first Monday in January of each year in order to select the officers of the commission for the current year and to conduct such other organizational business as may be necessary.

Subd. 6. The officers, who shall be commissioners, shall be a chair, a vice-chair, and a secretary, no two of whom shall be from the same county. The chair shall preside at all meetings of the commission, and in the chair's absence, the vice-chair shall preside. The secretary shall keep a complete record of the minutes of each meeting.

Subd. 7. Contracts and other written instruments of the commission shall be signed by the chair or vice-chair and by the business administrator of the commission pursuant to authority from the commission.

Subd. 8. The commission may adopt bylaws to regulate its own proceedings.

Subd. 9. Each commissioner shall have one vote. The majority of the voting power of the commission shall be 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 commission in order to carry.

Subd. 10. **Audit.** The legislative auditor shall audit the books and accounts of the commission once each year or as often as the legislative auditor's funds and personnel permit. The commission shall pay the total cost of the audit pursuant to section 3.9741.

History: 1975 c 13 s 128; 1982 c 579 s 5; 1983 c 129 s 2,3; 1984 c 638 s 6; 1986 c 444

473.704 POWERS AND DUTIES.

Subdivision 1. The commission shall have the powers and duties set forth in this section.

Subd. 2. It may take measures to control mosquitoes in the district in accordance with expert and technical plans.

Subd. 3. It may employ and fix the duties and compensation of a director who shall develop the mosquito control program of the district and shall supervise its execution; such director shall be an entomologist.

Subd. 4. It may employ and fix the duties and compensation of a business administrator who shall administer the business affairs of the commission.

Subd. 5. It may employ such other persons and contract for such other services as may be needed to carry out the program of the commission for mosquito control in the district, except that no person may be employed by the commission who is related to any commissioner.

Subd. 6. It may reimburse commissioners and employees for expenses necessarily incurred or paid in performance of their duties and provide reasonable per diem.

Subd. 7. It may purchase materials, supplies, and equipment as may be necessary to carry out the program of the commission for mosquito control in the district.

Subd. 8. It may accept gifts of property for mosquito control purposes.

Subd. 9. It may sell and dispose of any of the property of the commission whenever such property is no longer needed for the purposes of the commission. If the estimated value of any such property is over \$2,500, it shall be sold on competitive bids after two weeks published notice.

Subd. 10. It shall keep proper minutes of all its proceedings which shall be open to public inspection at all reasonable times.

Subd. 11. It shall keep proper and adequate books of accounts showing all its receipts and disbursements by date, source, and amount.

Subd. 12. It may obtain suitable, proper, and adequate public liability and workers' compensation insurance and such other insurance as it deems necessary.

Subd. 13. It may enter into agreements with counties, cities or towns of the state of Minnesota outside of the district to conduct mosquito and black gnat (*Simuliidae*) control activities in these political subdivisions in order to effectuate mosquito and black gnat (*Simuliidae*) control in the district and subdivisions.

Subd. 14. It may collect and receive from all counties in the district the money for operation of the district.

Subd. 15. It may perform whatever other acts are reasonable and necessary to carry out the general and specific powers of the commission.

Subd. 16. It may require employees of the commission who handle commission funds to furnish surety bonds in such amount as is determined by the commission.

Subd. 17. Members of the commission, its officers, and employees, while on the business of the commission, may enter upon any property within or outside the district at reasonable times to determine whether mosquito breeding exists. They may take all necessary and proper steps for the control of mosquitoes on property within the district as the director of the commission may designate. Subject to the paramount control of the county and state authorities, commission members and officers and employees of the commission may enter upon any property and clean up any stagnant pool of water, the shores of lakes and streams, and other breeding places for mosquitoes within the district. The commissioner of natural resources shall allow the commission to enter upon state property for the purposes described in this subdivision. The commission may apply insecticides approved by the director any area within or outside the district that is found to be a breeding place for mosquitoes. The commission shall give reasonable notification to the governing body of the local unit of government prior to applying insecticides outside of the district on land located within the jurisdiction of the local unit of government. The commission shall not enter upon private property if the owner objects except for control of disease bearing mosquito encephalitis outbreaks.

Subd. 18. The commission may establish a research program to evaluate the effects of mosquito and blackfly control on other fauna. The purpose of the program is to identify the types and magnitude of the adverse effects of the control program on fish and wildlife and associated food chain invertebrates. The commission may conduct research through contracts with qualified outside researchers. The commission may finance the research program each year at a level up to 2.5 percent of its annual budget.

Subd. 19. The commission, by December 15 of each even-numbered year, shall prepare and submit to the legislature a financial report that contains the information required by section 473.1623, subdivision 3, in a format consistent with the consolidated financial report required by that subdivision.

History: 1975 c 13 s 129; 1975 c 359 s 23; 1982 c 579 s 6; 1983 c 129 s 4; 1984 c 492 s 1; 1985 c 295 s 3; 1986 c 460 s 52

473.705 CONTRACTS FOR MATERIALS, SUPPLIES AND EQUIPMENT.

No contract for the purchase of materials, supplies, and equipment costing more than \$5,000 shall be made by the commission without publishing the notice once in the official newspaper of each of the counties in the district that bids or proposals will be

received. The notice shall be published at least ten days before bids are opened. Such notice shall state the nature of the work or purchase and the terms and conditions upon which the contract is to be awarded, naming therein a time and place where such bids will be received, opened, and read publicly. After such bids have been duly received, opened, read publicly, and recorded, the commission shall award such contract to the lowest responsible bidder or it may reject all bids. Each contract shall be duly executed in writing and the party to whom the contract is awarded may be required to give sufficient bond to the commission for the faithful performance of the contract. If no satisfactory bid is received the commission may readvertise. The commission shall have the right to set qualifications and specifications and to require bids to meet such qualifications and specifications before bids are accepted. If the commission by an affirmative vote of five-sixths of the voting power of the commission shall declare that an emergency exists requiring the immediate purchase of materials or supplies at a cost in excess of \$5,000 but not to exceed \$10,000 in amount, or in making emergency repairs, it shall not be necessary to advertise for bids, but such material, equipment, and supplies may be purchased in the open market at the lowest price available without securing formal competitive bids. An emergency as used in this section shall be an unforeseen circumstance or condition which results in placing life or property in jeopardy. All contracts involving employment of labor shall stipulate terms thereof and such conditions as the commission deems reasonable as to hours and wages.

History: 1975 c 13 s 130; 1982 c 579 s 7

473.706 ADVERSE INTEREST OF COMMISSIONERS.

No commissioner shall have any personal or financial interest in any sale, lease, or other contract made by the commission nor shall a commissioner benefit therefrom directly or indirectly. Any violation of this section may make such sale, lease, or other contract void. Upon conviction for a violation of this section a commissioner shall be automatically disqualified from further service on the commission.

History: 1975 c 13 s 131; 1986 c 444

473.711 FINANCING.

Subdivision 1. The method of providing funds for the commission shall be as set forth in this section.

Subd. 2. The metropolitan mosquito control commission shall prepare an annual budget. The budget may provide for expenditures in an amount not exceeding the property tax levy limitation determined in this subdivision. The commission may levy a tax on all taxable property in the district as defined in section 473.702 to provide funds for the purposes of sections 473.701 to 473.716. The tax shall not exceed the property tax levy limitation determined in this subdivision. A participating county may agree to levy an additional tax to be used by the commission for the purposes of sections 473.701 to 473.716 but the sum of the county's and commission's taxes may not exceed the county's proportionate share of the property tax levy limitation determined under this subdivision based on the ratio of its total gross tax capacity to the total gross tax capacity of the entire district as adjusted by section 270.12, subdivision 3. The auditor of each county in the district shall add the amount of the levy made by the district to other taxes of the county for collection by the county treasurer with other taxes. When collected, the county treasurer shall make settlement of the tax with the district in the same manner as other taxes are distributed to political subdivisions. No county shall levy any tax for mosquito and black gnat (*Simuliidae*) control except under sections 473.701 to 473.716. The levy shall be in addition to other taxes authorized by law and shall be disregarded in the calculation of limits on taxes imposed by chapter 275.

The property tax levied by the metropolitan mosquito control commission shall not exceed the following amount for the years specified:

(a) for taxes payable in 1988, the product of six-tenths on one mill multiplied by

the total assessed valuation of all taxable property located within the district as adjusted by the provisions of Minnesota Statutes 1986, sections 272.64; 273.13, subdivision 7a; and 275.49;

(b) for taxes payable in 1989, the product of (1) the commission's property tax levy limitation for the taxes payable year 1988 determined under clause (a) multiplied by (2) an index for market valuation changes equal to the assessment year 1988 total market valuation of all taxable property located within the district divided by the assessment year 1987 total market valuation of all taxable property located within the district; and

(c) for taxes payable in 1990 and subsequent years, the product of (1) the commission's property tax levy limitation for the previous year determined under this subdivision multiplied by (2) an index for market valuation changes equal to the total market valuation of all taxable property located within the district for the current assessment year divided by the total market valuation of all taxable property located within the district for the previous assessment year.

For the purpose of determining the commission's property tax levy limitation for the taxes payable year 1988 and subsequent years under this subdivision, "total market valuation" means the total market valuation of all taxable property within the district without valuation adjustments for fiscal disparities (chapter 473F), tax increment financing (sections 469.174 to 469.179), and high voltage transmission lines (section 273.425).

Subd. 3. Each county in the district shall turn over to the commission all proceeds of such special tax and any subsequent special tax immediately after such proceeds are received, to be deposited in a bank or banks designated by the commission as its official depository, in an account to be known as the metropolitan mosquito control fund; and such funds may only be expended by the commission for the activities of the commission. Any bank or trust company so designated shall qualify as a depository by furnishing a corporate surety bond or collateral as required by section 118.01, and shall thereafter, as long as money of the commission in excess of \$10,000 is on deposit therein, maintain such bond or collateral in the amounts required by said section. However, no bond or collateral shall be required to secure any deposit, insofar as it is insured under federal law as provided in section 118.10. Any county which issues certificates of indebtedness in anticipation of the collection and payment of such special tax shall deposit the funds procured thereby in the metropolitan mosquito control fund and said county shall redeem these certificates of indebtedness out of the special tax levy provided in this section. Any balance shall be deposited in the metropolitan mosquito control fund. All disbursements made pursuant to sections 473.702 to 473.716 shall be made from said fund upon order of the commission signed by the chair or vice-chair and by the business administrator, and each claim voucher shall be signed by the business administrator and shall specify the name of the payee, the amount to be disbursed, and the purpose of the disbursement.

Subd. 4. **Certificates of indebtedness.** The commission may issue certificates of indebtedness in anticipation of the collection and payment of a tax levied under this section in the same manner as a statutory city under section 412.261 and use their proceeds to accomplish its duties.

Subd. 5. **State review.** The commissioner of revenue shall annually determine whether the property tax certified by the metropolitan mosquito control commission for levy following the adoption of its budget is within the levy limitation imposed by subdivision 2. To the extent practicable, the determination must be completed prior to November 1 of each year. If current information regarding market valuation in any county is not transmitted to the commissioner in a timely manner, the commissioner may estimate the current market valuation within that county for purposes of making the calculation.

History: 1975 c 13 s 132; 1982 c 579 s 8; 1983 c 129 s 5; 1986 c 444; 1986 c 460 s 53; 1987 c 384 art 2 s 1; 1988 c 675 s 21,22; 1988 c 719 art 5 s 84

473.712 WITHDRAWAL; ASSETS.

A county may terminate its participation in the district only as provided by other law. If a county terminates its participation in the district, an appraisal of the property of the commission shall be made by a board of appraisers and the value determined as of the termination date. The board shall be three members, one appointed by the terminated county, one by the remaining counties within the district, and the third by the first two. If the first two appraisers cannot agree to the appointment of the third appraiser within 30 days, the commission shall appoint the third appraiser. An amount equal to the withdrawing county's share in the net assets of the commission proportionate to its financial contribution to the metropolitan mosquito control fund shall be paid to the treasurer of the terminated county. If a participating county furnishes specific funds and materials to be used in special projects, they shall be returned to it. If the district is dissolved, all property of the commission shall be sold and the proceeds remaining after the payment of the debts, obligations, and liabilities of the district, along with any balance in the fund, shall be paid to the counties which are members of the district in proportion to their financial contributions.

History: 1983 c 129 s 6

473.713 [Repealed, 1982 c 579 s 9]

473.714 COMPENSATION OF COMMISSIONERS.

Each commissioner, including the officers of the commission shall be reimbursed for actual and necessary expenses incurred in the performance of duties. The chair shall be paid a per diem for attending meetings, monthly, executive, and special, and each commissioner shall be paid a per diem for attending meetings, monthly, executive, and special, which per diem shall be established by the commission, such expense reimbursement and per diem notwithstanding any other funds which such commissioners may receive from any other public body. The annual budget of the commission 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.

History: 1975 c 13 s 134; 1Sp1985 c 13 s 358; 1986 c 444

473.715 CONTIGUOUS COUNTIES; MEMBERSHIP.

Any county contiguous to the district may become a party to the district whenever the county board of such county petitions the district to be admitted and the commission by resolution gives its consent to include such county in the district.

History: 1975 c 13 s 135

473.716 COOPERATION WITH OTHER AGENCIES; ADVISORS.

Subdivision 1. The commission shall cooperate for the purposes of research and protection of public health and welfare, with the state department of agriculture, the state department of health, the state department of natural resources, the University of Minnesota, the state agricultural experiment station, the state transportation department, the United States Department of Agriculture, and United States Public Health Service.

Subd. 2. The commissioners of agriculture, of natural resources, of transportation, the commissioner of the Minnesota department of health, and the head of the department of entomology and economic zoology of the University of Minnesota shall act in an advisory capacity to the metropolitan mosquito control commission and the director of said commission shall furnish to each of these departments a copy of the operational plan and pertinent technical reports of said district.

History: 1975 c 13 s 136; 1976 c 166 s 7; 1977 c 305 s 45

473.717 [Repealed, 1982 c 579 s 9]

METROPOLITAN SOLID AND HAZARDOUS WASTE

473.801 DEFINITIONS.

Subdivision 1. For the purposes of sections 473.801 to 473.845 and Laws 1985, chapter 274, section 45 the terms defined in this section have the meanings given them.

Subd. 2. "Local government unit" means any municipal corporation or governmental subdivision other than a metropolitan county located in whole or part in the metropolitan area, authorized by law to provide for the processing of solid waste.

Subd. 3. "Agency" means the Minnesota pollution control agency.

Subd. 4. Unless otherwise provided the definitions of terms in section 115A.03 shall apply to sections 473.801 to 473.845.

History: 1975 c 13 s 138; 1976 c 179 s 11,12; 1980 c 564 art 10 s 6; 1981 c 352 s 40; 1984 c 644 s 61,62; 1985 c 274 s 22

473.802 [Repealed, 1986 c 460 s 59]

473.803 METROPOLITAN COUNTY PLANNING.

Subdivision 1. **County master plans; general requirements.** Each metropolitan county, following adoption or revision of the council's solid waste policy plan and in accordance with the dates specified therein, and after consultation with all affected local government units, shall prepare and submit to the council for its approval, a county solid waste master plan to implement the policy plan. The master plan shall be revised and resubmitted at such times as the council's policy plan may require. The master plan shall describe county solid waste activities, functions, and facilities; the existing system of solid waste generation, collection, and processing, and disposal within the county; existing and proposed county and municipal ordinances and license and permit requirements relating to solid waste facilities and solid waste generation, collection, and processing, and disposal; existing or proposed municipal, county, or private solid waste facilities and collection services within the county together with schedules of existing rates and charges to users and statements as to the extent to which such facilities and services will or may be used to implement the policy plan; and any solid waste facility which the county owns or plans to acquire, construct, or improve together with statements as to the planned method, estimated cost and time of acquisition, proposed procedures for operation and maintenance of each facility; an estimate of the annual cost of operation and maintenance of each facility; an estimate of the annual gross revenues which will be received from the operation of each facility; and a proposal for the use of each facility after it is no longer needed or usable as a waste facility. The master plan shall, to the extent practicable and consistent with the achievement of other public policies and purposes, encourage ownership and operation of solid waste facilities by private industry. For solid waste facilities owned or operated by public agencies or supported primarily by public funds or obligations issued by a public agency, the master plan shall contain criteria and standards to protect comparable private and public facilities already existing in the area from displacement unless the displacement is required in order to achieve the waste management objectives identified in the plan.

Subd. 1a. **Proposed inventory of disposal sites.** By October 15, 1981, a metropolitan county having a population of less than 300,000, as determined by the 1980 United States Census, shall adopt, by resolution of the county governing body, an inventory of at least three proposed sites in the county suitable for mixed municipal solid waste disposal facilities and shall submit the inventory to the council for approval or disapproval. A metropolitan county having a population greater than 300,000, as determined by the 1980 United States Census, shall adopt, by resolution of the county governing body, an inventory of at least four proposed sites in the county that are suitable for mixed municipal solid waste disposal facilities and shall submit the inventory to the council for approval or disapproval. The council shall evaluate and

approve or disapprove each proposed site in accordance with the standards set out in this subdivision. Except as otherwise provided in this subdivision, each site shall satisfy the standards and criteria in federal and state regulations and the council's policy plan for solid waste management. In proposing and approving sites for the inventory, the counties and the council shall prefer land which is capable of being returned to its existing use or the use anticipated in a plan of a metropolitan agency, county, or local unit of government use after closure of a disposal facility. Each site shall contain no less than 80 acres and no more than 250 acres. Each proposed site shall be surrounded by a buffer area at least equal to the area of the site. No site shall be adopted by a county or the council as part of an inventory unless the agency certifies its intrinsic suitability for the use intended, based on preliminary environmental analysis and on site surveys and investigations conducted by the county. Notwithstanding any plan, charter provision, law, ordinance, regulation, or other requirement of any state agency or political subdivision, no land shall be excluded from consideration for inclusion in the inventory except land determined by the agency to be intrinsically unsuitable. Each county shall provide to the agency data relating to the intrinsic suitability of the sites to be proposed for the inventory as soon as available. By July 1, 1981 each county shall propose at least the number of sites required for the inventory, and the director of the agency shall issue a notice indicating which of those sites the director recommends be certified as intrinsically suitable. Notice of hearings on the director's recommendation shall be published in the state register and newspapers of general circulation in the metropolitan area and shall be sent by mail to the metropolitan council and local government units containing a proposed inventory site. A hearing shall be held in each metropolitan county and shall be conducted by the state office of administrative hearings in a manner consistent with the completion of the proceedings and the administrative law judge's report to the agency in the time allowed by this section. The hearing shall afford all interested persons an opportunity to testify and present evidence on the subject of the hearing. The subject of the hearing shall be limited to information submitted by the county and additional information on the proposed sites which is relevant to the agency's decision on intrinsic suitability. The rulemaking and contested case procedures of chapter 14 shall not apply to this hearing. The report of the administrative law judge shall contain findings of fact, conclusions, and recommendations on the subject of the hearing. The agency shall make a final determination as to the intrinsic suitability of each proposed site and shall certify them accordingly within 90 days of the county's proposal of a site. The agency shall not be required to promulgate rules pursuant to chapter 15 on criteria and standards to govern its certification of intrinsic suitability under this section. No action of the agency shall be held invalid by reason of the agency's failure to notify any of the entities listed in this subdivision. The council shall evaluate each site with respect to local land use and land use controls, the protection of agriculture and natural resources, existing and future development patterns, transportation facilities and other services and facilities appropriate to land disposal facilities, the quality of other potential sites, and patterns of generation of solid waste. The council shall notify a county of any site proposed by the county which the council disapproves and shall allow the county 60 days to propose an alternative site. If the county fails to propose an alternative acceptable to the council in the time allowed, the council shall propose a site acceptable to it for inclusion in the inventory of sites in that county. If in the council's judgment a county does not contain the requisite number of satisfactory sites, the council may reduce the number of sites required of that county.

Subd. 1b. Land disposal abatement proposal. By April 1, 1982, after considering the council's disposal abatement report submitted to the counties pursuant to section 473.149, subdivision 2a, each county shall submit to the council a proposal to reduce to the greatest feasible and prudent extent the need for and practice of land disposal of mixed municipal solid waste. The proposal must address at least waste reduction, separation, and resource recovery. The proposal must include objectives, immediately and over specified time periods, for reducing the land disposal of mixed municipal solid waste generated within the county. The proposal must describe specific functions to

be performed and activities to be undertaken by the county and cities and towns within the county to achieve the objectives and must describe the estimated cost, proposed manner of financing, and timing of the functions and activities. The proposal must include alternatives which could be used to achieve the objectives if the proposed functions and activities are not established. By August 1, 1984, each county shall provide the council with an analysis of the solid waste generated in the county, by classification of generators and by composition.

Subd. 1c. County abatement plan. Each county shall revise its master plan to include a land disposal abatement element to implement the council's land disposal abatement plan adopted under section 473.149, subdivision 2d, and shall submit the revised plan to the council for review under subdivision 2 within nine months after the adoption of the council's metropolitan abatement plan. The county plan must implement the local abatement objectives for the county and cities within the county as stated in the council's plan. The county abatement plan must include specific and quantifiable county objectives, based on the council's objectives, for abating to the greatest feasible and prudent extent the need for and practice of land disposal of mixed municipal solid waste and of specific components of the solid waste stream generated in the county, stated in annual increments through the date specified in section 473.848 and in two five-year increments thereafter. The plan must include measurable performance standards for local abatement of solid waste through resource recovery and waste reduction and separation programs and activities for the county as a whole and for statutory or home rule charter cities of the first, second, and third class, respectively, in the county, stated in annual increments through the date specified in section 473.848 and in two five-year increments thereafter. The performance standards must implement the metropolitan and county abatement objectives. The plan must include standards and procedures to be used by the county in determining annually under subdivision 3 whether a city within the county has implemented the plan and has satisfied the performance standards for local abatement. The master plan revision required by this subdivision must be prepared in consultation with the advisory committee established pursuant to subdivision 4.

Subd. 1d. Plans for required use of resource recovery facilities. Plans proposing designation of resource recovery facilities pursuant to section 473.811, subdivision 10, shall evaluate the benefits of the proposal, including the public purposes achieved by the conservation and recovery of resources, the furtherance of local, district, or regional waste management plans and policies, and the furtherance of the state policies and purposes expressed in section 115A.02, and also the costs of the proposal, including not only the direct capital and operating costs of the facility but also any indirect costs and adverse long-term effects of the designation. In particular the plan shall evaluate:

- (a) whether the required use will result in the recovery of resources or energy from materials which would otherwise be wasted;
- (b) whether the required use will lessen the demand for and use of land disposal;
- (c) whether the required use is necessary for the financial support of the facility;
- (d) whether less restrictive methods for ensuring an adequate solid waste supply are available;
- (e) all other feasible and prudent waste processing alternatives for accomplishing the purposes of the proposed designation, the direct and indirect costs of the alternatives, including capital and operating costs, and the effects of the alternatives on the cost to generators.

Subd. 1e. Recycling implementation strategy. (a) By December 1, 1988, each county shall submit for council approval a local recycling implementation strategy. The local recycling implementation strategy must:

- (1) be consistent with the approved county master plan;
- (2) identify the materials that will be recycled in the county, including at least yard waste and three other materials, and the parties responsible and method for recycling the material; and

(3) define the need for funds to ensure continuation of local recycling, methods of raising and allocating such funds, and permanent sources and levels of local funding for recycling.

(b) For the purposes of this subdivision, "recycling" includes yard waste composting and recycling that occurs at a waste facility through mechanical or hand separation of materials that are then delivered for reuse in their original form or for use in manufacturing processes.

Subd. 2. Council review. The council shall review each master plan or revision thereof to determine whether it is consistent with the council's policy plan. If it is not consistent, the council shall disapprove and return the plan with its comments to the county for revision and resubmittal. The county shall have 90 days to revise and resubmit the plan for council approval. Any county solid waste plan or report approved by the council prior to April 9, 1976, shall remain in effect until a new master plan is submitted to and approved by the council in accordance with this section.

Subd. 3. Annual report. Each metropolitan county shall prepare and submit annually to the council for its approval a report containing information, as the council may prescribe in its policy plan, concerning solid waste generation and management within the county. The report shall include a statement of progress in achieving the land disposal abatement objectives for the county and classes of cities in the county as stated in the council's policy plan and county master plan. The report must list cities that have not satisfied the county performance standards for local abatement required by subdivision 1c. The report must include a schedule of rates and charges in effect or proposed for the use of any solid waste facility owned or operated by or on its behalf, together with a statement of the basis for such charges.

Subd. 4. Advisory committee. By July 1, 1984, each county shall establish a solid waste management advisory committee to aid in the preparation of the county master plan, any revisions thereof, and such additional matters as the county deems appropriate. The committee must consist of citizen representatives, representatives from towns and cities within the county, and representatives from private waste management firms. The committee must include residents of towns or cities within the county containing solid waste disposal facilities and eligible solid waste disposal sites included in the council's disposal site inventory. Members of the council's solid waste advisory committee who reside in the county are ex officio members of the county advisory committee. A representative of the metropolitan council is an ex officio member of the committee.

History: 1975 c 13 s 140; 1976 c 179 s 14; 1980 c 564 art 10 s 8; 1981 c 352 s 41; 1982 c 424 s 130; 1982 c 569 s 26-28; 1983 c 373 s 57,58; 1984 c 455 s 1; 1984 c 640 s 32; 1984 c 644 s 63-65; 1985 c 274 s 23,24; 1987 c 348 s 41; 1988 c 685 s 30

473.806 INVENTORY OF DISPOSAL SITES; DEVELOPMENT LIMITATIONS.

Subdivision 1. Council approval required. In order to permit the comparative evaluation of sites and the participation of affected localities in decisions about the use of sites, a metropolitan development limitation is hereby imposed as provided in this subdivision on development within the area of each site and buffer area proposed by a county pursuant to section 473.803, subdivision 1a, pending the council's adoption of an inventory pursuant to section 473.149, subdivision 2b. For sites and buffer areas included in the council's inventory, the limitation shall extend until 90 days following the selection of sites pursuant to section 473.833, subdivision 3, except that the council may at any time, with the approval of the county in which the site is located, abrogate the application of the limitation to a specific site or sites or buffer areas. No development shall be allowed to occur within the area of a site or buffer area during the period of the metropolitan development limitation without the approval of the council. No county, city, or town land use control shall permit development which has not been approved by the council, nor shall any county, city, or town sanction or approve any subdivision, permit, license, or other authorization which would allow development to occur which has not been approved by the council. The council shall not approve

actions which would jeopardize the availability of a site for use as a solid waste facility. The council may establish guidelines for reviewing requests for approval under this subdivision. Requests for approval shall be submitted in writing to the chair of the council and must include a development schedule and any information required by the council to demonstrate that the proposed development is feasible and economically viable pursuant to guidelines adopted by the council. Requests for approval shall be deemed to be approved by the council unless the chair otherwise notifies the submitter in writing within 15 days.

Subd. 2. Acquisition of temporary development rights. If pursuant to subdivision 1 the council refuses to approve development which is permitted by local development plans, land use classification, and zoning and other official controls applying to the property on February 1, 1983, the landowner may elect to have the county purchase temporary development rights to the property for the period extending from the date when the council approved the site which affects the property for inclusion in the metropolitan inventory of sites until December 31, 1992. The election must be made within 30 days of the council's decision to refuse to approve development. The council shall provide funds, from the proceeds of the bonds issued pursuant to section 473.831, for the county to purchase the temporary development rights. The landowner's compensation shall be determined by the agreement of the owner, the county, and the council. If the parties cannot agree within 60 days of the owner's election, the county shall acquire the temporary development rights through eminent domain proceedings, and the landowner's compensation shall be the fair market value of the temporary development rights. A landowner who elects under this section to have the county purchase temporary development rights to the landowner's property is entitled to prompt action by the county. If the landowner brings a successful action to compel the county to initiate eminent domain proceedings, the landowner is entitled to petition the court for reimbursement of reasonable costs and expenses, including reasonable attorney, appraisal, and engineering fees that were actually incurred in bringing the action.

History: 1983 c 373 s 59; 1986 c 425 s 39; 1986 c 444; 1988 c 685 s 31

473.811 COUNTIES AND LOCAL UNITS OF GOVERNMENT; WASTE MANAGEMENT.

Subdivision 1. County acquisition of facilities. To accomplish the purpose specified in section 473.803, each metropolitan county may acquire by purchase, lease, gift or condemnation as provided by law, upon such terms and conditions as it shall determine, including contracts for deed and conditional sales contracts, solid waste facilities or properties or easements or development rights, as defined in section 473.833, for solid waste facilities which are in accordance with rules adopted by the agency, the policy plan adopted by the council and the county master plan as approved by the council, and may improve or construct improvements on any property or facility so acquired. No metropolitan city, county or town shall own or operate a hazardous waste facility. Each metropolitan county is authorized to levy a tax in anticipation of need for expenditure for the acquisition and betterment of solid waste facilities. If a tax is levied in anticipation of need, the purpose must be specified in a resolution of the county directing that the levy and the proceeds of the tax may be used only for that purpose. Until so used, the proceeds shall be retained in a separate fund or invested in the same manner as surplus in a sinking fund may be invested under section 475.66. The right of condemnation shall be exercised in accordance with chapter 117.

Subd. 1a. Right of access. Whenever the county or county site selection authority deems it necessary to the evaluation of a waste facility for enforcement purposes or to the evaluation of a site or buffer area for inclusion in the inventory of disposal sites pursuant to section 473.149, subdivision 2b, and section 473.803, subdivision 1a, or for selection or final acquisition under section 473.833, or for the accomplishment of any other purpose under sections 473.149, 473.153, and 473.801 to 473.834, the county, county site selection authority or any member, employee, or agent thereof,

when authorized by it, may enter upon any property, public or private, for the purpose of obtaining information or conducting surveys or investigations, provided that the entrance and activity is undertaken after reasonable notice and during normal business hours and provided that compensation is made for any damage to the property caused by the entrance and activity.

Subd. 2. County financing of facilities. Each metropolitan county may by resolution authorize the issuance of bonds to provide funds for the acquisition or betterment of solid waste facilities, related transmission facilities, or property or property rights for the facilities, for improvements of a capital nature to respond, as defined in section 115B.02, to releases from closed solid waste facilities, or for refunding any outstanding bonds issued for any such purpose. The county 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 or charges to be derived from any facility operated by or for the county, or any combination thereof. Taxes levied for the payment of the bonds and interest shall not reduce the amounts of other taxes which the county is authorized by law to levy. The proceeds of the bonds may be used in part to establish a reserve as further security for the payment of the principal and interest of the bonds when due. Revenue bonds issued pursuant to this section may be sold at public or private sale upon such conditions as the county board shall determine, but any bonds to which the full faith and credit and taxing powers of the county are pledged shall be sold in accordance with the provisions of chapter 475. No election shall be required to authorize the issuance of the bonds. Except as otherwise provided, the bonds shall be issued and sold in accordance with the provisions of chapter 475.

Subd. 2a. County solid waste industrial development revenue bonds. A metropolitan county may issue revenue bonds to finance solid waste and related facilities projects located inside or outside the boundaries of cities or towns described in section 368.01 under and pursuant to the provisions of chapter 474.

Subd. 3. County operation of facilities. Each metropolitan county may operate and maintain solid waste facilities, and for this purpose may employ all necessary personnel, may adopt regulations governing operation, and may establish and collect reasonable, nondiscriminatory rates and charges for the use of the facilities by any local government unit or person, estimated to be sufficient, with any other moneys appropriated for the purpose, to pay all costs of acquisition, operation and maintenance. Each metropolitan county may use itself or sell all or any part of materials or energy recovered from solid waste to private interests or public agencies for consumption or reuse by them. Section 471.345 and Laws 1951, chapter 556, as amended shall not apply to the sale of the materials or energy.

Subd. 3a. Service areas. Metropolitan counties have the authority provided in section 400.08.

Subd. 4. County contracts. Each metropolitan county may contract for the acquisition or use of existing public or private solid waste facilities or any facilities deemed necessary or useful for resource recovery from solid waste and may contract with any person for the operation or maintenance, or both, of any solid waste facility owned by the county. The contract shall provide for the operation or maintenance, or both, of the facility in accordance with any regulations, criteria, and standards of the agency, the metropolitan council and the county relating thereto. Any contract for the operation or maintenance of a solid waste facility may provide for the sale of solid waste, materials, electric energy, steam or other product to the operator or for a fee payable to the operator, which may be a fixed fee, or a fee based on tonnage or a percentage of income or other measure, or any combination thereof. A metropolitan county may warrant to the operator of a solid waste facility or contract purchaser of any solid waste, materials, electric energy, steam or other product the quality, composition and available quantity of the solid waste, materials, electric energy, steam or other product to be sold or delivered.

Subd. 4a. Ordinances; general conditions; restrictions; application. Ordinances

of counties and local government units related to or affecting waste management shall embody plans, policies, rules, standards and requirements adopted by any state agency authorized to manage or plan for or regulate the management of waste and the waste management plans adopted by the council and shall be consistent with county master plans approved by the council. Except as provided in this subdivision, a metropolitan county may acquire a site and buffer area for a solid waste disposal facility anywhere within the county without complying with local ordinances, if the action is approved by the council as being taken pursuant to the policy plan and the development schedule adopted under section 473.149, subdivision 2e, and the provisions of section 473.833, and the county may establish and operate or contract for the establishment or operation of a disposal facility at the site without complying with local ordinances, if the council certifies need under section 473.823, subdivision 6. With the approval of the council, local government units may impose and enforce reasonable conditions respecting the construction, operation, inspection, monitoring, and maintenance of the disposal facilities. No local government unit shall prevent the establishment or operation of any solid waste facility in accordance with the council's decision under section 473.823, subdivision 5, except that, with the approval of the council, the local government unit may impose reasonable conditions respecting the construction, inspection, monitoring, and maintenance of a facility.

Subd. 4b. Contracts; negotiation. Notwithstanding any other law, a metropolitan county may contract for the acquisition, construction, improvement, maintenance or operation of solid waste facilities or property or property rights for solid waste facilities by any means available and in the manner determined by the county board, with or without advertisement for bids. A metropolitan county may select and employ a construction manager for construction and acquisition of solid waste facilities or property or property rights for solid waste facilities and negotiate and enter into a construction management agreement, which may but need not include a guaranteed maximum price. A construction manager shall give a bond to the county in accordance with section 574.26 if a construction management agreement provides for a guaranteed maximum price, provided that the amount of any bond furnished by any contractor or subcontractor for performance of and payment of labor and materials under a contract or subcontract for solid waste facilities or property or property rights for solid waste facilities included in the guaranteed maximum price may be substituted to the extent of the bond amount for the bond of the construction manager. A construction management agreement for acquisition and construction of solid waste facilities or property or property rights for solid waste facilities may be combined with a contract for maintenance or operation, or both, of the facilities and negotiated with the same person.

Subd. 5. Ordinances; solid waste collection and transportation. Each metropolitan county may adopt ordinances governing the collection of solid waste. A county may adopt, but may not be required to adopt, an ordinance that requires the separation from mixed municipal waste, by generators before collection, of materials that can readily be separated for use or reuse as substitutes for raw materials or for transformation into a usable soil amendment. Each local unit of government within the metropolitan area shall adopt an ordinance governing the collection of solid waste within its boundaries. If the county within which it is located has adopted a collection ordinance, the local unit shall adopt either the county ordinance by reference or a more strict ordinance. If the county within which it is located has adopted a separation ordinance, the ordinance applies in all local units within the county that have failed to meet the local abatement performance standards, as stated in the most recent annual county report. Ordinances of counties and local government units may establish reasonable conditions respecting but shall not prevent the transportation of solid waste by a licensed collector through and between counties and local units, except as required for the enforcement of any designation of a facility by the council pursuant to section 473.827. A licensed collector or a metropolitan county or local government unit may request review by the council of an ordinance adopted under this subdivision. The council shall approve or disapprove the ordinance within 60 days of the submission of a request for review. The

ordinance shall remain in effect unless it is disapproved. Ordinances of counties and local units of government shall provide for the enforcement of any designation of facilities by the council under section 473.827. Nothing in this subdivision shall be construed to limit the authority of the local government unit to regulate and license collectors of solid waste or to require review or approval by the council for ordinances regulating collection.

Subd. 5a. Ordinances; solid waste facilities. Each metropolitan county shall by ordinance establish and from time to time revise rules, regulations, and standards for solid waste facilities within the county, relating to location, sanitary operation, periodic inspection and monitoring, maintenance, termination and abandonment, and other pertinent matters. The county ordinance may require facilities accepting mixed municipal solid waste for disposal to install scales. The county ordinance shall require permits or licenses for solid waste facilities and shall require that such facilities be registered with a county office.

Subd. 5b. Ordinances; hazardous waste management. Each metropolitan county shall by ordinance establish and revise rules, regulations, and standards relating to (a) the identification of hazardous waste, (b) the labeling and classification of hazardous waste, (c) the collection, storage, transportation, processing, and disposal of hazardous waste, and (d) other matters necessary for the public health, welfare and safety. The county shall require permits or licenses for the generation, collection, processing, and disposal of hazardous waste and shall require registration with a county office. County hazardous waste ordinances shall embody and be consistent with agency hazardous waste rules. Counties shall submit adopted ordinances to the agency for review. In the event that agency rules are modified, each county shall modify its ordinances accordingly and shall submit the modification to the agency for review within 120 days. Issuing, denying, suspending, modifying, imposing conditions upon, or revoking hazardous waste permits or licenses, and county hazardous waste regulations and ordinances, shall be subject to review, denial, suspension, modification, and reversal by the agency. The agency shall after written notification have 15 days in the case of hazardous waste permits and licenses and 30 days in the case of hazardous waste ordinances to review, suspend, modify, or reverse the action of the county. After this period, the action of the county board shall be final subject to appeal to the district court in the manner provided in chapter 14.

Subd. 5c. County enforcement. Each metropolitan county shall be responsible for insuring that waste facilities, solid waste collection operations licensed or regulated by the county and hazardous waste generation and collection operations are brought into conformance with, or terminated and abandoned in accordance with, applicable county ordinances; rules and requirements of the state; and the policy plan of the council. Counties may provide by ordinance that operators or owners or both of such facilities or operations shall be responsible to the county for satisfactorily performing the procedures required. If operators or owners or both fail to perform, the county may recover the costs incurred by the county in completing the procedures in a civil action in any court of competent jurisdiction or, in the discretion of the board, the costs may be certified to the county auditor as a special tax against the land. The ordinances may be enforced by action in district court. The county may prescribe a criminal penalty for the violation of any ordinance enacted under this section not exceeding the maximum which may be specified for a misdemeanor.

Subd. 6. Grants and loans to counties. Each metropolitan county may accept gifts, may apply for and accept grants or loans of money or other property from the United States, the state, the metropolitan council, any local government unit, or any person, to accomplish the purposes specified in sections 473.149, 473.151, 473.801 to 473.823, 473.831, 473.833, and 473.834, may enter into any agreement required in connection therewith, and may hold, use, and dispose of the money or property in accordance with the terms of the gift, grant, loan or agreement relating thereto.

Subd. 7. Joint action. Any local governmental unit or metropolitan agency may act together with any county, city, or town within or without the metropolitan area, or

with the pollution control agency or the waste management board under the provisions of section 471.59 or any other appropriate law providing for joint or cooperative action between government units, to accomplish any purpose specified in sections 473.149, 473.151, 473.801 to 473.823, 473.831, 473.833, 473.834, 116.05 and 115A.06.

Any agreement regarding data processing services relating to the generation, management, identification, labeling, classification, storage, collection, treatment, transportation, processing or disposal of waste and entered into pursuant to section 471.59, or other law authorizing joint or cooperative action may provide that any party to the agreement may agree to defend, indemnify and hold harmless any other party to the agreement providing the services, including its employees, officers or volunteers, against any judgments, expenses, reasonable attorney's fees and amounts paid in settlement actually and reasonably incurred in connection with any third party claim or demand arising out of an alleged act or omission by a party to the agreement, its employees, officers or volunteers occurring in connection with any exchange, retention, storage or processing of data, information or records required by the agreement. Any liability incurred by a party to an agreement under this subdivision shall be subject to the limitations set forth in section 3.736 or 466.04.

Subd. 8. County sale or lease. Each metropolitan county may sell or lease any facilities or property or property rights previously used or acquired to accomplish the purposes specified by sections 473.149, 473.151, 473.801 to 473.823, 473.831, 473.833, and 473.834. Such property may be sold in the manner provided by section 469.065, or may be sold in the manner and on the terms and conditions determined by the county board. Each metropolitan county may convey to or permit the use of any such property by a local government unit, with or without compensation, without submitting the matter to the voters of the county. No real property or property rights acquired pursuant to this section, may be disposed of in any manner unless and until the county shall have submitted to the agency and the metropolitan council for review and comment the terms on and the use for which the property will be disposed of. The agency and the council shall review and comment on the proposed disposition within 60 days after each has received the data relating thereto from the county.

Subd. 9. Solid and hazardous waste fund. All money received by any metropolitan county from any source specified in sections 473.149, 473.151, 473.801 to 473.823, 473.831, 473.833, and 473.834 shall be paid into the county treasury, placed in a special fund designated as the county solid and hazardous waste fund, and used only for the purposes authorized in those sections, as appropriated by the county board, subject to any lawful restrictions, conditions, or pledges applicable thereto.

Subd. 10. County designation of resource recovery facilities. A qualifying county may be authorized to designate a resource recovery facility under sections 115A.80 to 115A.89.

Subd. 11. [Repealed, 1986 c 425 s 46]

History: 1975 c 13 s 141; 1976 c 179 s 15; 1980 c 564 art 10 s 9; 1981 c 352 s 42-48; 1982 c 424 s 130; 1982 c 569 s 29,30; 1983 c 373 s 60; 1984 c 644 s 66; 1985 c 248 s 70; 1985 c 274 s 25-27; 1986 c 425 s 40,41; 1986 c 460 s 54; 1987 c 291 s 232; 1987 c 384 art 2 s 103-106

473.813 CITIES, COUNTIES, TOWNS; SOLID WASTE CONTRACTS.

Subdivision 1. Notwithstanding any contrary provision of law or charter, and in addition to the powers or authority granted by any other law or charter, a city, county, or town in the metropolitan area may directly negotiate and enter into contracts, for a term not to exceed 30 years, for the delivery of solid waste to a waste facility and the processing of solid waste. Contracts made by direct negotiations shall be approved by resolution adopted by the governing body of the city, county, or town.

Subd. 2. Before a city, county, or town enters into any contract pursuant to subdivision 1 for a period of more than five years, the city, county, or town shall submit the proposed contract and a description of the proposed activities under the contract

to the council for review and approval. The council shall approve the proposed contract if it determines that the contract is consistent with the council's plan, permits issued under section 473.823, and county reports or master plans approved by the council. The council may consolidate its review of contracts submitted under this section with its review of related permit applications submitted under section 473.823 and for this purpose may delay the review required by this section.

History: 1976 c 179 s 16; 1980 c 564 art 10 s 10

473.815 MS 1975 Supp [Repealed, 1976 c 179 s 20]

473.821 MS 1975 Supp [Repealed, 1976 c 179 s 20]

473.823 RULES AND PERMITS.

Subdivision 1. [Repealed, 1980 c 564 art 13 s 2]

Subd. 2. [Repealed, 1980 c 564 art 13 s 2]

Subd. 3. **Solid waste facilities; review procedures.** The agency shall request applicants for solid waste facility permits to submit all information deemed relevant by the council to its review, including without limitation information relating to the geographic areas and population served, the need, the effect on existing facilities and services, the anticipated public cost and benefit, the anticipated rates and charges, the manner of financing, the effect on metropolitan plans and development programs, the supply of waste, anticipated markets for any product, and alternative means of disposal or energy production. No permit may be issued for the operation of a solid waste facility in the metropolitan area which is not in accordance with the metropolitan council's solid waste policy plan. The metropolitan council shall determine whether a permit is in accordance with the policy plan. In making its determination, the council shall consider the areawide need and benefit of the applicant facility and may consider, without limitation, the effect of the applicant facility on existing and planned solid waste facilities described in a waste control commission implementation plan or county report or master plan. If the council determines that a permit is in accordance with its policy plan, the council shall approve the permit. If the council determines that a permit is not in accordance with its policy plan, it shall disapprove the permit. The council's approval of permits may be subject to conditions necessary to satisfy criteria and standards in its policy plan, including conditions respecting the type, character, and quantities of waste to be processed at a solid waste facility used primarily for resource recovery and the geographic territory from which a resource recovery facility or transfer station serving such a facility may draw its waste. For the purpose of this review and approval by the council, the agency shall send a copy of each permit application and any supporting information furnished by the applicant to the metropolitan council within 15 days after receipt of the application and all other information requested from the applicant. Within 60 days after the application and supporting information are received by the council, unless a time extension is authorized by the agency, the council shall issue to the agency in writing its determination whether the permit is disapproved, approved, or approved with conditions. If the council does not issue its determination to the agency within the 60-day period, unless a time extension is authorized by the agency, the permit shall be deemed to be in accordance with the council's policy plan. No permit shall be issued in the metropolitan area for a solid waste facility used primarily for resource recovery or a transfer station serving such a facility, if the facility or station is owned or operated by a public agency or if the acquisition or betterment of the facility or station is secured by public funds or obligations issued by a public agency, unless the council finds and determines that adequate markets exist for the products recovered and that establishment of the facility is consistent with the criteria and standards in the metropolitan and county plans respecting the protection of existing resource recovery facilities and transfer stations serving such facilities.

Subd. 4. [Repealed, 1980 c 564 art 13 s 2]

Subd. 5. **Review of waste processing facilities.** A metropolitan county may

establish a waste processing facility within the county without complying with local ordinances, if the action is approved by the council in accordance with the review process established by this subdivision. A county requesting review by the council shall show that the required permits for the proposed facility have been or will be issued by the agency, that the facility is consistent with the council's policy plan and the approved county master plan and that a local government unit has refused to approve the establishment or operation of the facility. The council shall meet to commence the review within 90 days of the submission of a request determined by the council to satisfy the requirements for review under this subdivision. At the meeting commencing the review the chair shall recommend and the council establish a scope and procedure for its review and final decision on the proposed facility. The procedure shall require the council to make a final decision on the proposed facility within 120 days following the commencement of review. The council shall conduct at least one public hearing in the city or town within which the proposed facility would be located. Notice of the hearing shall be published in a newspaper or newspapers of general circulation in the area for two successive weeks ending at least 15 days before the date of the hearing. The notice shall describe the proposed facility, its location, the proposed permits, and the council's scope and procedure for review. The notice shall identify a location or locations within the local government unit and county where the permit applications and the council's scope and procedure for review are available for review and where copies may be obtained. In its review and final decision on the proposed facility, the council shall consider at least the following matters:

(a) the risk and effect of the proposed facility on local residents, units of government, and the local public health, safety, and welfare, and the degree to which the risk or effect may be alleviated;

(b) the consistency of the proposed facility with, and its effect on, existing and planned local land use and development; local laws, ordinances, and permits; and local public facilities and services;

(c) the adverse effects of the facility on agriculture and natural resources and opportunities to mitigate or eliminate such adverse effects by additional stipulations, conditions, and requirements respecting the design and operation of the proposed facility at the proposed site;

(d) the need for the proposed facility and the availability of alternative sites;

(e) the consistency of the proposed facility with the county master plan adopted pursuant to section 473.803 and the council's policy plan adopted pursuant to section 473.149;

(f) transportation facilities and distance to points of waste generation.

In its final decision in the review, the council may either approve or disapprove the proposed facility at the proposed site. The council's approval shall embody all terms, conditions, and requirements of the permitting state agencies, provided that the council may require more stringent permit terms, conditions, and requirements respecting the design, construction, operation, inspection, monitoring, and maintenance of the proposed facility at the proposed site.

Subd. 6. Council; certification of need. No new mixed municipal solid waste disposal facility or capacity shall be permitted in the metropolitan area without a certificate of need issued by the council indicating the council's determination that the additional disposal capacity planned for the facility is needed in the metropolitan area. The council shall amend its policy plan, adopted pursuant to section 473.149, to include standards and procedures for certifying need that conform to the certification standards stated in this subdivision. The standards and procedures shall be based on the council's disposal abatement plan adopted pursuant to section 473.149, subdivision 2d, the council's solid waste disposal facilities development schedule adopted under section 473.149, subdivision 2e, and the provisions of any master plans of counties that have been approved by the council under section 473.803, subdivision 2, and that are consistent with the council's abatement plan and development schedule. The council shall certify need only to the extent that there are no feasible and prudent alternatives

to the disposal facility, including waste reduction, source separation and resource recovery which would minimize adverse impact upon natural resources. Alternatives that are speculative or conjectural shall not be deemed to be feasible and prudent. Economic considerations alone shall not justify the certification of need or the rejection of alternatives. In its certification the council shall not consider alternatives which have been eliminated from consideration by the adoption of the inventory pursuant to section 473.149, subdivision 2b, or the selection of sites under section 473.833, subdivision 3.

History: 1975 c 13 s 144; 1976 c 179 s 17; 1976 c 239 s 117; 1980 c 564 art 10 s 11-13; 1982 c 569 s 31; 1983 c 373 s 61; 1984 c 644 s 67; 1985 c 274 s 28; 1986 c 444; 1986 c 460 s 55

473.827 Subdivision 1. [Repealed, 1984 c 644 s 82]

Subd. 2. [Repealed, 1982 c 569 s 39; 1984 c 644 s 82]

Subd. 3. [Repealed, 1982 c 569 s 39; 1984 c 644 s 82]

Subd. 4. [Repealed, 1982 c 569 s 39; 1984 c 644 s 82]

Subd. 5. [Repealed, 1982 c 569 s 39; 1984 c 644 s 82]

Subd. 6. [Repealed, 1982 c 569 s 39; 1984 c 644 s 82]

Subd. 7. [Repealed, 1984 c 644 s 82]

473.831 DEBT OBLIGATIONS; SOLID WASTE .

Subdivision 1. **General obligation bonds.** The council may by resolution authorize the issuance of general obligation bonds of the council to provide funds for the purposes specified in subdivision 2 and for refunding obligations issued under this section. The bonds shall be sold, issued, and secured in the manner provided in chapter 475 for general obligation bonds, and the council shall have the same power and duties as a municipality and its governing body in issuing bonds under chapter 475, except as otherwise provided in this chapter. No election shall be required, and the net debt limitations in chapter 475 shall not apply. The council shall have the power levy ad valorem taxes for debt service of the council's solid waste bonds upon all taxable property within the metropolitan area, without limitation of rate or amount and without affecting the amount or rate of taxes which may be levied by the council for other purposes or by any local government unit in the area. Each of the county auditors shall annually assess and extend upon the tax rolls in the auditor's county the portion of the taxes levied by the council in each year which is certified to the auditor by the council. The principal amount of bonds issued pursuant to this section shall not exceed \$15,000,000.

Subd. 2. **Use of proceeds.** The proceeds of bonds issued under subdivision 1 shall be used by the council:

(a) to provide funds for the environmental analysis of solid waste disposal sites; and

(b) to make grants to metropolitan counties to pay for: (1) the cost of the environmental review of sites, (2) the acquisition of development rights for all or part of the period that the development limitation imposed by section 473.806 is in effect, (3) the acquisition of permanent or temporary right, title, or interests in property, including easements and development rights, for solid waste disposal sites and surrounding buffer areas required to be acquired by the county, pursuant to sections 473.833 and 473.840, by the council's policy plan and development schedule adopted pursuant to section 473.149, subdivision 2e, and (4) the acquisition and improvement of resource recovery facilities.

If the council is required by law or rule to prepare environmental analyses on one or more solid waste disposal sites and surrounding buffer areas, the council may use the proceeds of the bonds issued under subdivision 1 to contract for consultant services in the preparation of such analyses only upon a finding that equivalent expertise is not available among its own staff.

History: 1980 c 564 art 10 s 15; 1981 c 352 s 49; 1982 c 569 s 34,35; 1983 c 373 s

62; 1984 c 644 s 68; 1985 c 248 s 70; 1985 c 274 s 29; 1986 c 444; 1Sp1986 c 3 art 1 s 59

473.833 SOLID WASTE DISPOSAL SITES AND BUFFER AREAS.

Subdivision 1. Definition. "Development right" as used in this section means the right of the owner of the fee interest in land to change the use of the land from its existing use to any other use.

Subd. 2. Requirement. Each metropolitan county shall select and acquire sites and buffer areas for solid waste disposal facilities in accordance with this section and the council's policy plan and development schedule adopted pursuant to section 473.149, subdivision 2e.

Subd. 2a. Environmental impact statement. Each metropolitan county shall complete an environmental impact statement on the environmental effects of the decision required by subdivision 3. The statement shall be prepared and reviewed in accordance with chapter 116D and the rules issued pursuant thereto, except as otherwise required by section 473.149 and this section. The determination of adequacy must be made within one year following the council's adoption of the facilities development schedule pursuant to section 473.149, subdivision 2e. The statement must be consistent with the establishment of facilities in accordance with the requirements of the council's development schedule, must not address or reconsider alternatives eliminated from consideration under sections 473.149, 473.803, subdivisions 1, 1a, and 1b, and this section, and must not address matters to be determined by the council under section 473.823, subdivision 6. The statement must address matters respecting permitting under section 473.823 only to the extent deemed necessary for the siting decision required by subdivision 3. The pollution control agency and the council shall assist and advise counties in the scoping decision and the preparation notice.

Subd. 2b. Agencies; council; report on permit conditions and application requirements. Within 30 days following the county's determination of adequacy under subdivision 2a, the chief executive officer of the metropolitan council and each permitting state agency shall issue to the county reports on permit conditions and permit application requirements at each site in the county. The reports must indicate, to the extent possible based on existing information, the probable terms, conditions, and requirements of permits and the probable supplementary documentation and environmental review that will be required for permit applications pursuant to chapter 116 and section 473.823. A report may recommend that a site should be dropped from consideration because of information in the environmental impact statement showing that the site is environmentally unsuitable for land disposal and unlikely to qualify for permits. The reports must be consistent with the establishment of facilities in accordance with the requirements of the council's development schedule adopted under section 473.149, subdivision 2e, must not address or reconsider alternatives eliminated from consideration under sections 473.149, 473.803, subdivisions 1, 1a, and 1b, and this section, and must not address matters to be determined by the council under section 473.823, subdivision 6.

Subd. 3. County site selection authorities. Each metropolitan county shall establish a site selection authority. Within 90 days following the county's determination of adequacy under subdivision 2a, each site selection authority shall select specific sites within the county from the council's disposal site inventory, in accordance with the procedures established by the council under section 473.149, subdivision 2e, and in a number and capacity equal to that required by the council to be acquired by the county. Each site selection authority shall be composed of the county board, plus one member appointed by the governing body of each city or town within the county containing a site in the council's disposal site inventory or the majority of the land contained within such a site. If the number of members on the site selection authority who reside in a city or town containing all or part of a site or buffer area is equal to or greater than the number of members who do not, the chair of the county board shall appoint to the authority an additional member or members, residing within the county

but not within a city or town containing all or part of a site or buffer area, sufficient to assure a majority of one on the authority of members residing in cities and towns not containing all or any part of a site or buffer area. The chair of the county board shall be the chair of the site selection authority. If a site selection authority has not selected the requisite number and capacity of sites in accordance with the council's standards, criteria, and procedures within the time allowed by this subdivision, the council shall make the selection. A county is not required to develop a solid waste disposal facility in any municipality in which a mixed municipal solid waste resource recovery facility having a capacity greater than 400 tons per day is located if the council finds that the capacity and number of disposal facilities required by the development schedule in that county can be provided in that county without development of the solid waste disposal facility.

Subd. 4. Acquisition and disposition. In order to prevent the development of conflicting land uses at and around future solid waste disposal facility sites, each metropolitan county shall acquire property and rights in property at and around each solid waste disposal site selected within the county pursuant to subdivision 3. Each site scheduled for development as a facility through the year 1990 must be acquired in fee. Development rights must be acquired for each site scheduled for development as a facility after the year 1990 through the year 2000. Development rights must be acquired in a buffer area surrounding and at least equal to the area of each site scheduled for development as a facility through the year 2000. The owner of any property for which development rights are to be or have been acquired pursuant to this subdivision may elect by written notice at any time up to 90 days following the issuance of a permit by the agency for a facility to have the county acquire fee title to the property. Fee title may not be acquired by counties for buffer areas except at the election of the owner of the fee.

Subd. 5. Compensation. Where the development right or fee is acquired by means other than through eminent domain proceedings, as by direct purchase or gift, the land owner's compensation shall be determined by the agreement of the parties involved. Where the fee is acquired through eminent domain proceedings, the land owner's compensation shall be the fair market value of the property. Where the development rights are acquired through eminent domain proceedings, the land owner's compensation shall be the fair market value of the property less the value of the land as restricted to the use to which it is devoted at the time of the acquisition. An award of compensation in a condemnation proceeding shall not be increased or decreased by reason of any increase or decrease in the value of the property caused by its designation in the inventory of disposal sites and buffer areas or its selection as a site or buffer area. Where the fee is subsequently condemned after the acquisition of the development rights, the land owner's compensation shall be based on the value of the property as restricted to the use permitted at the date of the subsequent acquisition.

Subd. 6. Disposition. The county may sell property and development rights, with the permission of the council, when they are no longer needed for a site or surrounding buffer area. The owner of the fee shall have the right of first refusal of any development rights at the price of purchase plus interest at the rate permitted under section 344.01. The proceeds from any sale of property or development rights shall be returned to the council and used to pay debt service on the council's solid waste bonds.

Subd. 7. Failure of counties to acquire; report to legislature. If any county fails to identify property for acquisition or to proceed with environmental analysis and acquisition, as required by this section and the council's disposal facility development schedule adopted pursuant to section 473.149, subdivision 2e, the council shall prepare and recommend legislation to transfer solid waste management authority and responsibility in the metropolitan area from the counties to the waste control commission or a new metropolitan commission established for that purpose.

History: 1980 c 564 art 10 s 16; 1981 c 352 s 50; 1983 c 301 s 213; 1983 c 373 s 63-66; 1984 c 644 s 69; 1986 c 444

473.834 DEBT SERVICE; SOLID WASTE BONDS.

Subdivision 1. Certain cities and towns; exemption. Each city or town in which a solid waste disposal facility is operating after January 1, 1980, shall be permanently exempt from the payments required by this section, if the facility is a commercial facility disposing of mixed municipal solid waste under an agency permit.

Subd. 2. Allocation of debt service. The annual debt service on the council's solid waste bonds, issued under section 473.831, shall be annually apportioned and certified by the council to each county in the metropolitan area, in the proportion that the gross tax capacity of all taxable property within each county bears to the gross tax capacity of the taxable property in all the counties, except that the apportionment to each county shall first be adjusted to reflect exemptions from payment required by subdivision 1.

Subd. 3. [Repealed, 1987 c 348 s 52]

Subd. 4. [Repealed, 1981 c 352 s 53]

Subd. 5. [Repealed, 1981 c 352 s 53]

History: 1980 c 564 art 10 s 17; 1981 c 352 s 51; 1987 c 348 s 42; 1988 c 719 art 5 s 84

473.840 PURCHASE OF CERTAIN PROPERTY.

Subdivision 1. Public purpose. In order for the responsible public agency to select and acquire environmentally suitable sites and buffer areas for the safe disposal of waste, the legislature finds that it is necessary and proper for the responsible agency to evaluate more than one site for disposal facilities and that it is appropriate to purchase property, within the sites and buffer areas selected for evaluation, to avoid or mitigate any undue hardship that may be imposed on property owners as a result of the selection of sites for evaluation.

Subd. 2. Definitions. (a) "Qualifying property" is a parcel of real property any part of which is located within the site or buffer area of a candidate site under section 473.153, or a site included in the metropolitan inventory adopted under section 473.149, subdivision 2b, for the purposes of environmental review under section 473.833, subdivision 2a.

(b) An "eligible owner" is a person who: (1) owns the entire parcel of qualifying property; (2) owned the entire parcel of property at the time the site was selected as a candidate site or included in the metropolitan inventory; and (3) has not previously entered a contract under subdivision 4 for the sale of any or all of the parcel.

Subd. 3. Contract request. An eligible owner of property qualifying under section 473.153 may request in writing that the waste control commission and the metropolitan council enter a contract for the purchase of the property as provided in subdivision 4. An eligible owner of property qualifying under sections 473.149 and 473.833 may request in writing that the county in which the property is located and the metropolitan council enter a contract for the purchase of property as provided in subdivision 4. A contract may not be executed under subdivision 4 after the determination of adequacy of the environmental impact statement. Environmental review commences on the day of publication of the environmental impact statement preparation notice.

Subd. 4. Contract; terms and requirements. The council and the county or commission shall enter a contract as provided in this subdivision with an eligible owner of qualifying property who requests the council and the county or commission to enter the contract as provided in subdivision 3. The council and the county or commission have 90 days to act on a request submitted under subdivision 3. The contract must include at least the following terms:

(a) The owner must offer to sell the entire parcel of property on the open market through a licensed real estate agent approved by the council for at least a six-month period beginning within one month after the appraised market value of the property is determined as provided in paragraph (b). The offer to sell must be made at no more than the appraised market value.

(b) The appraised market value of the property must be determined by an appraiser selected by the council. If the owner disagrees with the appraisal the owner shall select an appraiser to make a second appraisal. If a second appraisal is made, the council and the owner may agree on an appraised market value equal to either the first or second appraisal or any amount between those appraisals. If the council and owner do not agree on an appraised market value the two appraisers shall select a third appraiser, and the appraised market value must be determined by a majority of the three appraisers. Appraisers must be selected from the approved list of real property appraisers of the state commissioner of administration. Appraisers shall take an oath that they have no interest in any of the property to be appraised or in the purchase thereof. Each party shall pay the cost of the appraiser selected by that party and shall share equally in the cost of a third appraiser selected under this paragraph. The appraised market value of the property may not be increased or decreased by reason of its selection as a candidate or inventoried site or buffer area.

(c) The county or commission must purchase the entire parcel of property at the appraised market value determined under paragraph (b) if: (1) the council determines, based upon affidavits provided by the owner and the real estate agent and other evidence the council may require, that the owner has made a good faith effort to sell the property as provided in paragraph (a) and has been unable to sell the property at the appraised market value; (2) the county or commission determines that the owner has marketable title to the property and that the owner has cured any defects in the title within a reasonable time as specified in the contract; and (3) the owner conveys the property by warranty deed in a form acceptable to the county or commission.

(d) The owner may not assign or transfer any rights under the contract to another person.

(e) The contract expires and the obligations of the parties under the contract cease when the property is sold or is either selected or eliminated from consideration by a final decision of the council under section 473.153, subdivision 6, or by a final decision of the county site selection authority or council under section 473.833, subdivision 3.

(f) The council and the commission or county may require other terms of contract that are consistent with the purposes of this section and necessary to protect the interests of the parties.

Subd. 5. Compensation of agent; limitation. A real estate agent may not receive a commission or any other compensation from an owner of property which is subject to a contract under subdivision 4 if the property is purchased by the public agency under that contract. Any term of a contract between a real estate agent and a property owner contrary to the provisions of this subdivision is void and unenforceable.

Subd. 6. Administration. The council, the county, and the commission are authorized to perform all acts required to enter and enforce contracts to purchase real property as provided in this section, including selecting and compensating appraisers and real estate agents.

Subd. 7. Disposition of property. (a) Property acquired by the county or commission under this section must be retained in ownership until the selection of sites is completed under section 473.153 or 473.833, whereupon the county or commission shall sell all property located in the area of any site eliminated from further consideration and all property in the area of the selected sites that is not needed for the site or buffer area. The commission or county, with the approval of the council, may temporarily delay sale to protect the interests of the public agencies involved. The sale must be approved by the council, and the proceeds of the sale must be returned to the council and used to pay principal and interest on debt issued for acquisition.

(b) The county or commission may lease or rent any property acquired under this section for any use which is consistent with the development limitations until it is sold or is needed for use as a facility site or buffer area. Lease and rental agreements must be approved by the council, and proceeds of any lease or rental must be returned to the council and used to pay principal and interest on debt issued for acquisition. The county or commission may insure against loss to the property by fire, lightning,

windstorm, tornado, flood, or hail, in the amount determined by the county or commission, using any insurance company licensed to do business in the state.

History: 1984 c 644 s 70; 1985 c 274 s 30; 1988 c 685 s 32,33

METROPOLITAN LANDFILL ABATEMENT ACT

473.841 CITATION.

Sections 473.842 to 473.847 may be cited as the "metropolitan landfill abatement act."

History: 1984 c 644 s 71

473.842 DEFINITIONS.

Subdivision 1. **Scope.** As used in sections 473.842 to 473.847, the terms defined in this section have the meanings given them.

Subd. 1a. **Closure.** "Closure" means actions that will prevent, mitigate, or minimize the threat to public health and the environment posed by a closed solid waste disposal facility including application of final cover; grading and seeding of final cover; installation of an adequate monitoring system, if necessary; and construction of ground and surface water diversion structures.

Subd. 2. **Market development.** "Market development" means the location and facilitation of markets for materials, substances, energy, or other products contained within or derived from waste.

Subd. 3. **Mixed municipal solid waste disposal facility.** "Mixed municipal solid waste disposal facility" means a waste facility used for the disposal of mixed municipal solid waste.

Subd. 4. **Operator.** "Operator" means:

- (1) the permittee of a mixed municipal solid waste disposal facility that has an agency permit; or
- (2) the person in control of a mixed municipal solid waste disposal facility that does not have an agency permit.

Subd. 4a. **Postclosure, postclosure care.** "Postclosure" and "postclosure care" mean actions taken for the care, maintenance, and monitoring of a solid waste disposal facility after closure that will prevent, mitigate, or minimize the threat to public health and environment posed by the closed facility.

Subd. 5. **Response.** "Response" has the meaning given it in section 115B.02, subdivision 18.

Subd. 6. **Solid waste disposal facility.** "Solid waste disposal facility" means a waste facility which is used for the disposal of solid waste.

History: 1984 c 644 s 72; 1985 c 274 s 31,32; 1987 c 348 s 43

473.843 METROPOLITAN SOLID WASTE LANDFILL FEE.

Subdivision 1. **Amount of fee; application.** The operator of a mixed municipal solid waste disposal facility in the metropolitan area shall pay a fee on solid waste accepted and disposed at the facility as follows:

(a) A facility that weighs the waste that it accepts must pay a fee of 50 cents per cubic yard based on equivalent cubic yards of waste accepted at the entrance of the facility.

(b) A facility that does not weigh the waste but that measures the volume of the waste that it accepts must pay a fee of 50 cents per cubic yard of waste accepted at the entrance of the facility.

(c) Waste residue from energy and resource recovery facilities at which solid waste is processed for the purpose of extracting, reducing, converting to energy, or otherwise separating and preparing solid waste for reuse is exempt from one-half of the amount

of fee imposed by this subdivision if there is at least an 85 percent volume reduction in the solid waste processed. To qualify for exemption under this clause, waste residue must be brought to a disposal facility separately. The commissioner of revenue, with the advice and assistance of the agency, shall prescribe procedures for determining the amount of waste residue qualifying for exemption.

Subd. 2. Disposition of proceeds. After reimbursement to the department of revenue for costs incurred in administering this section, the proceeds of the fees imposed under this section, including interest and penalties, must be deposited as follows:

(a) one-half of the proceeds must be deposited in the landfill abatement fund established in section 473.844; and

(b) one-half of the proceeds must be deposited in the metropolitan landfill contingency action fund established in section 473.845.

Subd. 3. Payment of fee. On or before the 20th day of each month each operator shall pay the fee due under this section for the previous month, using a form provided by the commissioner of revenue.

Subd. 4. Exchange of information. Notwithstanding the provisions of section 116.075, the agency may provide the commissioner of revenue with the information necessary for the enforcement of this section. Information disclosed in a return filed under this section is public information. Information exchanged between the commissioner and the agency is public unless the information is of the type determined to be for the confidential use of the agency under section 116.075 or is trade secret information classified under section 13.37. Information obtained in the course of an audit by the department of revenue is private or nonpublic data to the extent that it would not be directly divulged in a return.

Subd. 5. Penalties; enforcement. The audit, penalty, and enforcement provisions applicable to taxes imposed under chapter 290 apply to the fees imposed under this section. The commissioner of revenue shall administer the provisions.

Subd. 6. Rules. The commissioner of revenue may adopt rules necessary to implement this section.

Subd. 7. [Repealed, 1985 c 274 s 47]

History: 1984 c 644 s 73; 1988 c 719 art 19 s 24

NOTE: This section, as added by Laws 1984, chapter 644, section 73, is effective January 1, 1985, except that the fees imposed by this section shall be effective January 1, 1990, with respect to nonhazardous solid waste from metalcasting facilities. See Laws 1984, chapter 644, section 85, as amended by Laws 1987, chapter 348, section 50.

473.844 METROPOLITAN LANDFILL ABATEMENT FUND.

Subdivision 1. Establishment; purposes. The metropolitan landfill abatement fund is created as an account in the state treasury in order to reduce to the greatest extent feasible and prudent the need for and practice of land disposal of mixed municipal solid waste in the metropolitan area. The fund consists of revenue deposited in the fund under section 473.843, subdivision 2, clause (a), and interest earned on investment of money in the fund. All repayments to loans made under this section must be credited to the fund. The money in the fund may be spent only for purposes of metropolitan landfill abatement as provided in subdivision 1a and only upon appropriation by the legislature.

Subd. 1a. Use of funds. The money in the fund may be spent only for the following purposes:

(1) assistance to any person for resource recovery projects funded under subdivision 4 or projects to develop markets for reusable or recyclable waste materials, including related public education, planning, and technical assistance;

(2) grants to counties under section 473.8441; and

(3) program administration by the metropolitan council.

Subd. 2. [Repealed, 1987 c 348 s 52]

Subd. 3. **Commission recommendation.** The legislative commission on waste management shall make recommendations to the standing legislative committees on finance and appropriations about appropriations from the fund.

Subd. 4. **Resource recovery grants and loans.** The grant and loan program under this subdivision is administered by the metropolitan council. Grants and loans may be made to any person for resource recovery projects. The grants and loans may include the cost of planning, acquisition of land and equipment, and capital improvements. Grants and loans for planning may not exceed 50 percent of the planning costs. Grants and loans for acquisition of land and equipment and for capital improvements may not exceed 50 percent of the cost of the project. Grants and loans may be made for public education on the need for the resource recovery projects. A grant or loan for land, equipment, or capital improvements may not be made until the metropolitan council has determined the total estimated capital cost of the project and ascertained that full financing of the project is assured. Grants and loans made to cities, counties, or solid waste management districts must be for projects that are in conformance with approved master plans. A grant or loan to a city or town must be reviewed and approved by the county for conformance with the county master plan.

Subd. 5. [Repealed, 1987 c 348 s 52]

History: 1984 c 644 s 74; 1985 c 274 s 33,34; 1987 c 348 s 44,45

473.8441 LOCAL RECYCLING DEVELOPMENT PROGRAM.

Subdivision 1. **Definitions.** "Number of households" has the meaning given in section 477A.011, subdivision 3a.

Subd. 2. **Program.** The council shall encourage the development of permanent local recycling programs throughout the metropolitan area. By January 1, 1988, the council shall develop performance indicators for local recycling that will measure the availability and use of recycling throughout the metropolitan area. The council shall make grants to qualifying metropolitan counties as provided in this section.

Subd. 3. **Grants; eligible costs.** Grants may be used to pay for planning, developing, and operating yard waste composting and recycling programs.

Subd. 4. **Grant conditions.** The council shall administer grants so that the following conditions are met:

(a) A county must apply for a grant in the manner determined by the council. The application must describe the activities for which the grant will be used.

(b) The activities funded must be consistent with the council's policy plan and the county master plan.

(c) A grant must be matched by equal county expenditures for the activities for which the grant is made.

(d) All grant funds must be used for new activities or to enhance or increase the effectiveness of existing activities in the county.

(e) Counties shall provide support to maintain effective municipal recycling where it is already established.

Subd. 5. **Grant allocation procedure.** (a) The council shall distribute the funds so that each qualifying county receives a base amount of \$25,000, plus a proportionate share of the remaining funds available for the program. A county's share is an amount that has the same proportion to the total remaining funds as the number of households in the county has to the total number of households in all metropolitan counties. The council shall distribute the funds in two parts.

(b) The first distribution consists of the base amount plus one-third of the county's proportionate share. To qualify for the first distribution, a county must submit an application for council approval before December 1, 1987. Not more than one-half of the first distribution may be spent for planning and consultants.

(c) The second distribution consists of the remaining funds available for the program. To qualify for the second distribution, a county must have received funds

under the first distribution and must submit for council approval by December 1, 1988, a report on expenditures and activities under the program, a local recycling implementation strategy as required by section 473.803, subdivision 1e, and a proposed performance funding system that will allocate all of the remaining funds available under the program for recycling implementation activities in accordance with performance.

History: 1987 c 348 s 46

473.845 METROPOLITAN LANDFILL CONTINGENCY ACTION FUND.

Subdivision 1. Establishment. The metropolitan landfill contingency action fund is created as an account in the state treasury. The fund consists of revenue deposited in the fund under section 473.843, subdivision 2, clause (b); amounts recovered under subdivision 6; and interest earned on investment of money in the fund.

Subd. 2. Water supply monitoring. Up to ten percent of the money in the fund may be appropriated to the commissioner of health for water supply monitoring. The commissioner shall monitor the quality of water in public water supply wells and may monitor private water supply wells in the metropolitan area that may be affected by their location in relation to a facility for mixed municipal solid waste. Testing under this subdivision must be for substances not funded under the Federal Safe Drinking Water Act.

Subd. 3. Expenditures from the fund. Money in the fund may only be appropriated to the agency for expenditure for:

(1) reasonable and necessary expenses for closure and postclosure care of a mixed municipal solid waste disposal facility in the metropolitan area for a 20-year period after closure, if the agency determines that the operator or owner will not take the necessary actions requested by the agency for closure and postclosure in the manner and within the time requested;

(2) reasonable and necessary response and postclosure costs at a mixed municipal solid waste disposal facility in the metropolitan area that has been closed for 20 years in compliance with the closure and postclosure rules of the agency; or

(3) reasonable and necessary response costs resulting from county actions required under section 473.833, subdivision 2a, when those actions are done under the supervision of the agency.

Subd. 4. Commission recommendation. The legislative commission on waste management shall make recommendations to the standing legislative committees on finance and appropriations about appropriations from the fund.

Subd. 5. Duty to provide information. The operator or owner of a mixed municipal solid waste disposal facility or a solid waste disposal facility shall provide the necessary information to the agency required by sections 473.842 to 473.847 or by agency rules.

Subd. 6. Access to information and property. The agency or any member, employee, or agent thereof authorized by the agency, upon presentation of credentials, may:

(1) examine and copy any books, papers, records, memoranda, or data of any person who has a duty to provide information to the agency under sections 473.842 to 473.847; and

(2) enter upon any property, public or private, for the purpose of taking any action authorized by this section including obtaining information from any person who has a duty to provide the information, conducting surveys or investigations, and taking response action.

Subd. 7. Recovery of expenses. When the agency incurs expenses for response actions at a facility, the agency is subrogated to any right of action which the operator or owner of the facility may have against any other person for the recovery of the expenses. The attorney general may bring an action to recover amounts spent by the agency under this section from persons who may be liable for them. Amounts recov-

ered, including money paid under any agreement, stipulation, or settlement must be deposited in the metropolitan landfill contingency action fund.

Subd. 8. **Civil penalties.** The civil penalties of section 115.071 apply to any person in violation of this section. All money recovered by the state under any statute or rule related to the regulation of solid waste in the metropolitan area, including civil penalties and money paid under any agreement, stipulation, or settlement, shall be deposited in the fund.

History: 1984 c 644 s 75; 1985 c 198 s 1; 1988 c 685 s 34

473.846 REPORT TO LEGISLATURE.

By November 1, 1986, and each year thereafter, the agency and metropolitan council shall submit to the senate finance committee, the house appropriations committee, and the legislative commission on waste management separate reports describing the activities for which money from the landfill abatement and contingency action funds has been spent during the previous fiscal year. The council may incorporate its report in the report required by section 473.149. In its 1988 report, the council shall make recommendations to the legislature on the future management and use of the metropolitan landfill abatement fund.

History: 1984 c 644 s 76; 1987 c 348 s 47

473.847 OPERATOR OR OWNER LIABILITY FOR RESPONSE EXPENSES.

The operator or owner of a mixed municipal solid waste disposal facility in the metropolitan area is not liable under any other law for response costs incurred by the agency at that facility under section 473.845, if the facility has been closed for 20 years in compliance with the closure and postclosure rules of the agency. Any provision of this section which relieves the operator or owner of a facility from liability for the payment of the agency's response costs must not be construed to affect the liability of any other person who may be liable for those costs.

History: 1984 c 644 s 77

473.848 RESTRICTION ON DISPOSAL.

After January 1, 1990, waste disposal facilities located in the metropolitan area may not accept mixed municipal solid waste for disposal unless the waste has been transferred to the disposal facility from a resource recovery facility identified by the council. For purposes of this section, mixed municipal solid waste does not include street sweepings, construction debris, mining waste, foundry sand, and other materials, if they are not capable of being processed by resource recovery as determined by the council.

History: 1985 c 274 s 35

METROPOLITAN LAND USE PLANNING

473.851 LEGISLATIVE FINDINGS AND PURPOSE.

The legislature finds and declares that the local governmental units within the metropolitan area are interdependent, that the growth and patterns of urbanization within the area create the need for additional state, metropolitan and local public services and facilities and increase the danger of air and water pollution, and that developments in one local governmental unit may affect the provision of regional capital improvements for sewers, transportation, airports and regional recreation open space. Since problems of urbanization and development transcend local governmental boundaries, there is a need for the adoption of coordinated plans, programs and controls by all local governmental units and school districts in order to protect the health, safety and welfare of the residents of the metropolitan area and to ensure coordinated, orderly and economic development. Therefore, it is the purpose of sections 462.355, subdivision 4, 473.175, and 473.851 to 473.871 to (1) establish

requirements and procedures to accomplish comprehensive local planning with land use controls consistent with planned, orderly and staged development and the metropolitan system plans, and (2) to provide assistance to local governmental units and school districts within the metropolitan area for the preparation of plans and official controls appropriate for their areas and consistent with metropolitan system plans.

History: 1976 c 127 s 1; 1977 c 347 s 68

473.852 DEFINITIONS.

Subdivision 1. As used in sections 462.355, subdivision 4, 473.175, and 473.851 to 473.871, the following terms shall have the meanings given them.

Subd. 2. "Advisory metropolitan land use committee" or "advisory committee" means an advisory committee established by the metropolitan council pursuant to section 473.853.

Subd. 3. "Applicable planning statute" means sections 394.21 to 394.37 for counties and sections 462.351 to 462.364 for cities and towns.

Subd. 4. "Capital improvement program" means an itemized program for a five year prospective period, and any amendments thereto, subject to at least biennial review, setting forth the schedule, timing, and details of specific contemplated capital improvements by year, together with their estimated cost, the need for each improvement, financial sources, and the financial impact that the improvements will have on the local governmental unit or school district.

Subd. 5. "Comprehensive plan" means the comprehensive plan of each local governmental unit described in sections 473.858 to 473.862, and any amendments to the plan.

Subd. 6. "Fiscal devices" means the valuation of property pursuant to section 273.111, the designation of urban and rural service districts, pursuant to section 272.67, and the establishment of development districts pursuant to sections 469.124 to 469.134, and any other statutes authorizing the creation of districts in which the use of tax increment bonding is authorized.

Subd. 7. "Local governmental unit" or "unit" means all cities, counties and towns lying in whole or in part within the metropolitan area, but does not include school districts.

Subd. 8. "Metropolitan system plans" means the airports and transportation portions of the metropolitan development guide, and the policy plans, implementation plans, and capital budgets for metropolitan waste control, transportation, and regional recreation open space.

Subd. 9. "Official controls" or "controls" means ordinances and rules which control the physical development of a city, county or town or any part thereof or any detail thereof and implement the general objectives of the comprehensive plan. Official controls may include ordinances establishing zoning, subdivision controls, site plan regulations, sanitary codes, building codes and official maps.

Subd. 10. "Private sewer facility" means a single lot, multiple lot or other sewage collection or treatment facility owned, constructed or operated by any person other than a local governmental unit or the metropolitan waste control commission.

Subd. 11. "School district" has the meaning given it by section 120.02, subdivisions 14 and 15, and includes any independent or special school district whose administrative offices are located within the metropolitan area as of April 3, 1976.

History: 1976 c 127 s 2; 1977 c 347 s 68; 1985 c 248 s 70; 1986 c 460 s 56; 1987 c 291 s 233

473.853 ADVISORY COMMITTEE.

The council shall establish an advisory metropolitan land use committee pursuant to section 473.127, comprised of 16 members, one from each council district, and as many additional members as are necessary to provide representation from each metro-

politan county, plus a chair. At least one-half of the members of the advisory committee shall be elected officials of local governmental units. The members shall be appointed for the same period as the term of the council member for the district in which the member resides.

History: 1976 c 127 s 3; 1977 c 347 s 68; 1986 c 444

473.854 GUIDELINES.

The council shall prepare and adopt guidelines and procedures relating to the requirements and provisions of sections 462.355, subdivision 4, 473.175, and 473.851 to 473.871 which will provide assistance to local governmental units and school districts in accomplishing the provisions of sections 462.355, subdivision 4, 473.175, and 473.851 to 473.871.

History: 1976 c 127 s 4; 1977 c 347 s 68

473.855 METROPOLITAN SYSTEM STATEMENT.

By July 1, 1977, the council shall transmit to each local governmental unit a metropolitan system statement and to each school district a statement comprised of the parts of metropolitan system statements affecting the school district. In the preparation of the metropolitan system statement, the council shall consult with appropriate commissions and officials of the unit. The statement shall contain information relating to the unit and appropriate surrounding territory that the council determines necessary for the unit to consider in preparing its comprehensive plan, including the following:

(a) The timing, character, function, location, projected capacity and conditions on use, for existing or planned metropolitan public facilities, as specified in metropolitan system plans, and for state and federal public facilities to the extent known to the council;

(b) The population, employment and housing need projections which have been used by the council as a basis for its metropolitan system plans;

(c) Any parts of the land use plan, public facilities plan or implementation program which may be excluded from the plan of the local governmental unit. The exclusion of parts shall be based on the nature and character of existing and projected development within each local governmental unit and on policies, statements, and recommendations contained in metropolitan system plans.

History: 1976 c 127 s 5; 1977 c 347 s 68

473.856 METROPOLITAN SYSTEM STATEMENTS; AMENDMENTS.

Local governmental units shall consider in their initial comprehensive plans submitted to the council, and school districts shall consider in their initial capital improvement programs submitted to the council, any amendments or modifications to metropolitan system plans which were made by the council and transmitted prior to January 1, 1978. Thereafter, within nine months after receiving an amendment to a metropolitan system plan, each affected local governmental unit shall review its comprehensive plan and each affected school district shall review its capital improvement program to determine if an amendment is necessary to ensure continued conformity with metropolitan system plans. If an amendment is necessary, the governmental unit or school district shall prepare the amendment and submit it to the council for review pursuant to sections 462.355, subdivision 4, 473.175, and 473.851 to 473.871.

History: 1976 c 127 s 6; 1977 c 347 s 68

473.857 SYSTEM STATEMENTS; RECONCILIATION PROCEDURES.

Subdivision 1. If a local governmental unit or school district and the council are unable to resolve disagreements over the content of a system statement, the unit or district may by resolution request that a hearing be conducted by the advisory committee or by the state office of administrative hearings for the purpose of considering

amendments to the system statement. The request shall be made by the unit or district within 60 days after receipt of the system statement and shall be accompanied by a description of the disagreement together with specified proposed amendments to the system statement. If no request for a hearing is received by the council within 60 days, the statement shall be final.

Subd. 2. A hearing shall be conducted within 60 days after the request, provided that the committee shall consolidate hearings on related requests. The hearing shall not consider the need for or reasonableness of the metropolitan system plans or parts thereof. The hearing shall afford all interested persons an opportunity to testify and present evidence. The advisory committee or administrative law judge may employ the appropriate technical and professional services of the commissioner of trade and economic development for the purpose of evaluating disputes of fact. The proceedings shall not be deemed a contested case. Within 30 days after the hearing, the committee or hearing examiner shall report to the council respecting the proposed amendments to the system statements. The report shall contain findings of fact, conclusions, and recommendations and shall apportion the costs of the proceedings among the parties.

Subd. 3. Within 30 days of receipt of the report, the council, by resolution containing findings of fact and conclusions, shall make a final determination respecting the proposed amendments. At any point in the reconciliation procedure established by this section, the council and a local governmental unit or district may resolve their disagreement by stipulation.

History: 1976 c 127 s 7; 1977 c 347 s 68; 1980 c 615 s 60; 1981 c 356 s 241; 1983 c 289 s 115 subd 1; 1984 c 640 s 32; 1987 c 312 art 1 s 26 subd 2

473.858 COMPREHENSIVE PLANS; LOCAL GOVERNMENTAL UNITS.

Subdivision 1. Within three years following the receipt of the metropolitan system statement, every local governmental unit shall have prepared a comprehensive plan in accordance with sections 462.355, subdivision 4, 473.175, and 473.851 to 473.871 and the applicable planning statute and shall have submitted the plan to the metropolitan council for review pursuant to section 473.175. The provisions of sections 462.355, subdivision 4, 473.175, and 473.851 to 473.871 shall supersede the provisions of the applicable planning statute wherever a conflict may exist. If the comprehensive municipal plan is in conflict with the zoning ordinance, the zoning ordinance supersedes the plan.

Subd. 2. Local governmental units shall submit their proposed plans to adjacent governmental units and affected school districts for review and comment at least six months prior to submission of the plan to the council and shall submit copies to them on the submission of the plan to the council.

Subd. 3. The plans shall be submitted to the council following approval by the planning commission of the unit and after consideration but before final approval by the governing body of the unit.

Subd. 4. Comprehensive plans, capital improvement programs, sewer policy plans and official controls of local governmental units adopted prior to the requirements of sections 462.355, subdivision 4, 473.175, and 473.851 to 473.871 shall remain in force and effect until amended, repealed or superseded by plans or controls adopted pursuant to sections 462.355, subdivision 4, 473.175, and 473.851 to 473.871. Existing comprehensive plans, capital improvement programs, sewer policy plans, and official controls may be amended and new capital improvement programs and official controls may be prepared and adopted prior to the submission to the council of comprehensive plans required by sections 462.355, subdivision 4, 473.175, and 473.851 to 473.871.

History: 1976 c 127 s 8; 1977 c 347 s 68; 1985 c 62 s 4

473.859 COMPREHENSIVE PLAN CONTENT.

Subdivision 1. **Contents.** The comprehensive plan shall contain objectives, policies, standards and programs to guide public and private land use, development,

redevelopment and preservation for all lands and waters within the jurisdiction of the local governmental unit through 1990 and may extend through any year thereafter which is evenly divisible by five. Each plan shall specify expected industrial and commercial development, planned population distribution, and local public facility capacities upon which the plan is based. Each plan shall contain a discussion of the use of the public facilities specified in the metropolitan system statement and the effect of the plan on adjacent local governmental units and affected school districts. Existing plans and official controls may be used in whole or in part following modification, as necessary, to satisfy the requirements of sections 462.355, subdivision 4, 473.175, and 473.851 to 473.871. The comprehensive plan may contain any additional matter which may be included in a comprehensive plan of the local governmental unit pursuant to the applicable planning statute.

Subd. 2. Land use plan. A land use plan shall designate the existing and proposed location, intensity and extent of use of land and water for agricultural, residential, commercial, industrial and other public and private purposes, or any combination of such purposes. A land use plan shall contain a protection element, as appropriate, for historic sites and the matters listed in section 473.204, and an element for protection and development of access to direct sunlight for solar energy systems. A land use plan shall also include a housing element containing standards, plans and programs for providing adequate housing opportunities to meet existing and projected local and regional housing needs, including but not limited to the use of official controls and land use planning to promote the availability of land for the development of low and moderate income housing.

Subd. 3. Public facilities plan. A public facilities plan shall describe the character, location, timing, sequence, function, use and capacity of existing and future public facilities of the local governmental unit. A public facilities plan must be in at least such detail as may be necessary to establish existing or potential effects on or departures from metropolitan system plans and to protect metropolitan system plans. A public facilities plan shall contain at least the following parts:

(a) A transportation plan describing, designating and scheduling the location, extent, function and capacity of existing and proposed local public and private transportation services and facilities;

(b) A sewer policy plan describing, designating and scheduling the areas to be sewered by the public system, the existing and planned capacities of the public system, the standards and conditions under which the installation of private sewer systems will be permitted, and to the extent practicable, the areas not suitable for public or private systems because of public health, safety and welfare considerations;

(c) A parks and open space plan describing, designating and scheduling the existing and proposed parks and recreation open spaces within the jurisdiction.

Subd. 4. Implementation program. An implementation program shall describe public programs, fiscal devices and other specific actions to be undertaken in stated sequence to implement the comprehensive plan and ensure conformity with metropolitan system plans. An implementation program must be in at least such detail as may be necessary to establish existing or potential effects on or departures from metropolitan system plans and to protect metropolitan system plans. An implementation program shall contain at least the following parts:

(a) A description of official controls, addressing at least the matters of zoning, subdivision, and private sewer systems, and a schedule for the preparation, adoption, and administration of such controls.

(b) A capital improvement program for transportation, sewers, parks and open space facilities.

(c) A housing implementation program, including official controls to implement the housing element of the land use plan, which will provide sufficient existing and new housing to meet the local unit's share of the metropolitan area need for low and moderate income housing.

Subd. 5. Urbanization areas. The comprehensive plans may designate, when appropriate, five year urbanization areas and shall specify in the capital improvement program the timing and sequence of major local public facilities and in the implementation program official controls which will ensure that urbanization occurs only in urbanization areas and in accordance with the plan.

History: 1976 c 127 s 9; 1977 c 347 s 68; 1978 c 786 s 20

473.86 CITIES.

Except as provided in the metropolitan system statement, comprehensive plans of cities shall include the matters specified in section 473.859.

History: 1976 c 127 s 10; 1977 c 347 s 68

473.861 TOWNS.

Subdivision 1. Except as provided in the metropolitan system statement, comprehensive plans of towns shall include the matters specified in section 473.859.

Subd. 2. By December 31, 1976, each town within the counties of Anoka, Carver, Dakota, Scott and Washington, authorized to plan under sections 462.351 to 462.364, or under special law, shall by resolution determine whether it will prepare the comprehensive plan for its jurisdiction. Each such town also shall specify, pursuant to agreement with the county within which it is situated, any parts of its plan and official controls, if any, the preparation of which it delegates to the county.

Subd. 3. Towns within counties which have adopted comprehensive plans applicable to the town shall, to the maximum extent, use county preparation of their comprehensive plans.

History: 1976 c 127 s 11; 1977 c 347 s 68

473.862 COUNTIES.

Subdivision 1. Comprehensive plans of counties shall contain at least the following:

(a) Except for the counties of Hennepin and Ramsey, a land use plan as specified in section 473.859, subdivision 2, for all unincorporated territory within the county;

(b) A public facilities plan which shall include all appropriate matters specified in section 473.859, subdivision 3, including a transportation plan, and a description of existing and projected solid waste disposal sites and facilities;

(c) An implementation program, as specified in section 473.859, subdivision 4.

Subd. 2. Each county other than Hennepin and Ramsey shall prepare, with the participation and assistance of the town, the comprehensive plan for any town within the county which fails by December 31, 1976, to take action by resolution pursuant to section 473.861, subdivision 2 and shall prepare all or part of any plan delegated to it pursuant to section 473.861, subdivision 2.

Subd. 3. Each county other than Hennepin and Ramsey shall prepare, with the participation and assistance of the town, the comprehensive plan for each town within the county not authorized to plan under sections 462.351 to 462.364, or under special law.

History: 1976 c 127 s 12; 1977 c 347 s 68

473.863 SCHOOL DISTRICTS; CAPITAL IMPROVEMENT PROGRAMS.

Subdivision 1. By January 1, 1980, each school district as defined in section 473.852, subdivision 11, shall prepare and submit to the metropolitan council, for review pursuant to section 473.175, a capital improvement program, which shall include a description of existing facilities, projected population and facility needs and objectives, proposed new school sites, buildings, and building additions with a cost of more than \$200,000 and the effect of the program on adjacent school districts and affected local governmental units.

Subd. 2. Each school district shall submit its capital improvement program for review and comment to the local governmental units lying in whole or in part within the district and to adjacent school districts at least nine months prior to the submission of the program to the council. The local governmental units and adjacent districts shall review the program and provide comments to the school district and the council within 90 days on the compatibility of the program with the proposed comprehensive plans of the local governmental units and the capital improvement programs of the school districts.

Subd. 3. The capital improvement programs shall be submitted to the council after consideration but before final approval by the governing body of the district.

Subd. 4. Capital improvement programs of school districts adopted prior to the requirements of sections 462.355, subdivision 4, 473.175, and 473.851 to 473.871 shall remain in force and effect until amended, repealed, or superseded by programs adopted pursuant to sections 462.355, subdivision 4, 473.175, and 473.851 to 473.871. Existing programs may be amended as appropriate and new programs prepared and adopted prior to the submission to the council of programs required by sections 462.355, subdivision 4, 473.175, and 473.851 to 473.871. Existing programs may be used in whole or in part following modification, as necessary, to satisfy the requirements of sections 462.355, subdivision 4, 473.175, and 473.851 to 473.871.

History: 1976 c 127 s 13; 1977 c 347 s 68

473.864 PLANS AND PROGRAMS; ADOPTION; AMENDMENT.

Subdivision 1. Each local governmental unit shall adopt its comprehensive plan with required modifications within nine months following a final decision, order, or judgment made pursuant to section 473.866. Each school district shall adopt its capital improvement program, after receiving and considering the council's review statement sent pursuant to section 473.175 and making any amendments which the school district determines may be appropriate.

Subd. 2. Amendments to comprehensive plans of local governmental units and to capital improvement programs of school districts shall be prepared, submitted, and adopted in conformance with guidelines adopted by the metropolitan council pursuant to section 473.854.

History: 1976 c 127 s 15; 1977 c 347 s 68; 1981 c 242 s 1

473.865 IMPLEMENTATION OF PLANS.

Subdivision 1. Each local governmental unit shall adopt official controls as described in its adopted comprehensive plan and shall submit copies of the official controls to the council within 30 days following adoption thereof, for information purposes only.

Subd. 2. A local governmental unit shall not adopt any official control or fiscal device which is in conflict with its comprehensive plan or which permits activity in conflict with metropolitan system plans.

Subd. 3. If an official control conflicts with a comprehensive plan as the result of an amendment to the plan, the official control shall be amended by the unit within nine months following the amendment to the plan so as to not conflict with the amended comprehensive plan.

History: 1976 c 127 s 16; 1977 c 347 s 68

473.866 CONTESTED CASES; ADMINISTRATIVE AND JUDICIAL REVIEW.

The council's decision to require modification under section 473.175 may be contested by the affected local governmental unit. The unit shall have 60 days within which to request a hearing on the council's decision to require modification. If within 60 days the unit has not requested a hearing, the council shall make its final decision with respect to the required modifications. If an affected unit requests a hearing, the request for hearing shall be granted, and the hearing shall be conducted within 60 days

by the state office of administrative hearings in the manner provided by chapter 14 for contested cases. The subject of the hearing shall not extend to questions concerning the need for or reasonableness of the metropolitan system plans or any part thereof. In the report of the administrative law judge the costs of the hearing shall be apportioned among the parties to the proceeding. Within 30 days after the receipt of the report the council shall, by resolution containing findings of fact and conclusions, make a final decision with respect to the required modifications of the comprehensive plan. Any party to the proceeding aggrieved by the decision of the council may appeal to the court in the manner provided in chapter 14 for contested cases. The record on appeal shall consist of: (1) the administrative law judge's record and report, and (2) the findings, conclusions and final decision of the council. The scope of review shall be that of section 14.69, provided that: (1) the court shall not give preference to either the administrative law judge's record and report or the findings, conclusions and final decision of the council, and (2) the decision of the court shall be based upon a preponderance of the evidence as contained in the record on appeal. The costs of the appeal shall be apportioned by the court.

History: 1976 c 127 s 17; 1977 c 347 s 68; 1980 c 615 s 60; 1982 c 424 s 130; 1984 c 640 s 32

473.867 PLANNING ASSISTANCE; GRANTS; LOANS.

Subdivision 1. The council shall prepare and provide advisory materials, model plan provisions and official controls, and on the request of a local governmental unit may provide assistance, to accomplish the purposes of sections 462.355, subdivision 4, 473.175, and 473.851 to 473.871. The council may also provide specific technical and legal assistance in connection with the preparation, adoption and defense of plans, programs, and controls.

Subd. 2. The council shall establish a planning assistance fund as a separate bookkeeping account in its general fund for the purpose of making grants and loans to local governmental units under this section. The council shall adopt uniform procedures for the award, disbursement and repayment of grants and loans.

Subd. 3. Local governmental units may apply, contract for and receive loans and grants as provided herein, and the provisions of chapter 475 shall not apply to loans made pursuant hereto. Applications for grants and loans shall be submitted to the council describing the activities for which the grant or loan funds will be used; the persons which the grantee or borrower plans to use in performing the grant contract; services and activities which will be paid for by funds of the grantee or borrower; the grantee or borrower's need and ability to pay for the contract services; and other information as the council may reasonably request. Grants and loans shall be made subject to contracts between the council and the recipient specifying the use and disbursement of the funds and, for loans, the terms and conditions of repayment, and other appropriate matters. In making grants and loans, the council shall base its decisions on the recipient's demonstrated need and available financial resources.

Subd. 4. Grants shall not exceed 75 percent of the total costs and expenses of the project, service or activity for which a grant is awarded.

Subd. 5. Loans made by the council shall be payable on such terms and conditions as the council determines appropriate, provided that no loan shall carry an interest rate nor be for a term in excess of five years. Funds received in payment of loans shall be credited to the planning assistance fund and shall be used for additional loans or grants under this section.

History: 1976 c 127 s 18; 1977 c 347 s 68

473.868 HOUSING.

Subdivision 1. The legislature finds and determines that there is a need for housing in the metropolitan area, that an increasingly large majority of the residents of the metropolitan area are unable to afford housing, and that it is in the public interest that,

for certain portions of the buildable residential land, the official controls imposed on development by municipalities in the metropolitan area be required to permit the construction of modest cost housing by the private sector which could be afforded by a significant portion of the families in the metropolitan area.

Subd. 2. As used in this section, "buildable residential land" means land within a municipality which is suitable for development, zoned for a residential use, which has access to sewer and water service, and for which no building permit has been issued.

Subd. 3. The chair of the council shall establish a modest cost private housing advisory committee consisting of not more than 15 persons consisting of local elected officials, consumers and persons experienced in the field of housing construction, trades and management and mortgage banking, plus ex officio members as the chair of the council may determine, to provide advice and make recommendations on the effects of governmental rules, taxes, financing and housing industry practices on the costs of housing. The committee shall investigate and make recommendations on all matters necessary including standards and criteria for modest cost private housing as follows:

- (1) A zoning classification and ordinances that take into account minimum and maximum single family lot sizes.
- (2) Building requirements contained within the state building code.
- (3) Minimum and maximum square foot area requirements for single family homes.
- (4) The requirement of a single family garage and off-street parking requirements.
- (5) Zoning classification and ordinances that take into account density requirements for multifamily construction.
- (6) Minimum and maximum square foot floor areas for multifamily units.
- (7) Requirements of garages for multifamily units, credits for garage inclusion and off-street parking requirements.

Subd. 4. On or before January 15, 1977, the council shall, following public hearings, submit to the legislature a report on the findings of the committee and the council's recommendations for ensuring an adequate supply of modest cost private housing.

History: 1976 c 127 s 19; 1977 c 347 s 68; 1985 c 248 s 70; 1986 c 444

473.869 EXTENSION.

A local governmental unit may by resolution request that the council extend the time for fulfilling the requirements of sections 462.355, subdivision 4, 473.175, and 473.851 to 473.871. A request for extension shall be accompanied by a description of the activities previously undertaken by a local governmental unit in fulfillment of the requirements of sections 462.355, subdivision 4, 473.175, and 473.851 to 473.871, and an explanation of the reasons necessitating and justifying the request. Upon a finding of exceptional circumstances or undue hardship, the council may, in its discretion, grant by resolution a request for extension and may attach reasonable requirements or conditions to the extension.

History: 1976 c 127 s 20; 1977 c 347 s 68

473.87 EXEMPTION FROM LEVY LIMIT.

Subdivision 1. The increased costs to a municipality of implementing sections 473.175; 473.858, subdivisions 1 to 3; 473.859 to 473.862; and 473.866 shall be deemed a special levy under section 275.50, subdivision 5.

Subd. 2. The proceeds of any tax levied under this section shall be deposited in the municipal treasury in a separate fund and expended only for the purposes authorized by this section.

History: 1976 c 127 s 22; 1977 c 347 s 68

473.871 NEW MUNICIPAL SEWER SYSTEMS.

Notwithstanding the provisions of sections 462.355, subdivision 4, 473.175, and 473.851 to 473.871 the council shall have no authority under this chapter to require a local governmental unit to construct a new sewer system.

History: 1976 c 127 s 23; 1977 c 347 s 68

473.872 APPLICATION.

Sections 473.121, subdivision 1, 462.355, subdivision 4, 473.175, and 473.851 to 473.871 apply in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington.

History: 1976 c 127 s 25; 1977 c 347 s 68

METROPOLITAN SURFACE WATER MANAGEMENT**473.875 METROPOLITAN WATER MANAGEMENT PROGRAMS; PURPOSES.**

The purpose of the water management programs required by sections 473.875 to 473.883 is to protect, preserve and use natural surface and ground water storage and retention systems in order to (a) reduce to the greatest practical extent the public capital expenditures necessary to control excessive volumes and rates of runoff, (b) protect and improve surface and ground water quality, (c) prevent flooding and erosion from surface flows, (d) promote ground water recharge, (e) protect and enhance fish and wildlife habitat and water recreational facilities, and (f) secure the other benefits associated with the proper management of surface and ground water.

History: 1982 c 509 s 18; 1987 c 207 s 4

473.876 DEFINITIONS.

Subdivision 1. **Scope.** For the purposes of sections 473.875 to 473.883, the following terms have the meanings given them.

Subd. 1a. **Board.** "Board," unless the context indicates otherwise, means the board of water and soil resources created in section 110B.35.

Subd. 2. **Capital improvement program.** "Capital improvement program" means an itemized program for at least a five year prospective period, and any amendments to it, subject to at least biennial review, setting forth the schedule, timing, and details of specific contemplated capital improvements by year, together with their estimated cost, the need for each improvement, financial sources, and the financial effect that the improvements will have on the local government unit or watershed management organization.

Subd. 2a. **Ground water plan.** "Ground water plan" means a county plan adopted under section 473.8785.

Subd. 2b. **Ground water system.** "Ground water system" means one of the 14 principal aquifers of the state as defined by the United States Geological Survey in the Water-Resources Investigations 81-51, entitled "Designation of Principal Water Supply Aquifers in Minnesota" (August 1981), and its revisions.

Subd. 3. **Local comprehensive plan.** "Local comprehensive plan" has the meaning given it in section 473.852, subdivision 5.

Subd. 4. **Local government unit.** "Local government unit" or "local unit" has the meaning given it in section 473.852.

Subd. 5. **Minor watershed units.** "Minor watershed units" means the drainage areas identified and delineated as such pursuant to Laws 1977, chapter 455, section 33, subdivision 7(a).

Subd. 6. **Official controls.** "Official controls" has the meaning given it in section 473.852.

Subd. 7. **Watershed.** "Watershed" means a drainage area having boundaries which are substantially coterminous with those of an aggregation of contiguous minor watershed units possessing similar drainage patterns and which cross the borders of two or more local government units.

Subd. 8. **Watershed district.** "Watershed district" means a district established under chapter 112.

Subd. 9. **Watershed management organization.** "Watershed management organization" or "organization" means a watershed district wholly within the metropolitan area or a joint powers entity established wholly or partly within the metropolitan area by special law or by agreement that performs some or all of the functions of a watershed district for a watershed and that has the characteristics and the authority specified under section 473.877. Lake improvement or conservation districts are not watershed management organizations.

History: 1982 c 509 s 19; 1984 c 411 s 3; 1987 c 207 s 5,6; 1987 c 358 s 121

473.877 JOINT POWERS WATERSHED MANAGEMENT ORGANIZATION.

Subdivision 1. **Authority.** Any agreement under section 471.59 to jointly or cooperatively manage or plan for the management of surface water in a watershed delineated pursuant to subdivision 2, as required by sections 473.875 to 473.883, may provide, in addition to other provisions authorized by section 471.59, for a joint board having:

(a) the authority to prepare, adopt, and implement a plan for the watershed meeting the requirements of section 473.878;

(b) the authority to review and approve local water management plans as provided in section 473.879;

(c) the authority of a watershed district under chapter 112 to regulate the use and development of land in the watershed when one or more of the following conditions exists: (1) the local government unit exercising planning and zoning authority over the land under sections 366.10 to 366.19, 394.21 to 394.37, or 462.351 to 462.364, does not have a local water management plan approved and adopted in accordance with the requirements of section 473.879 or has not adopted the implementation program described in the plan; (2) an application to the local government unit for a permit for the use and development of land requires an amendment to or variance from the adopted local water management plan or implementation program of the local unit; (3) the local government unit has authorized the organization to require permits for the use and development of land;

(d) the authority of a watershed district under section 112.65 to accept the transfer of drainage systems in the watershed, to repair, improve, and maintain the transferred drainage systems, and to construct all new drainage systems and improvements of existing drainage systems in the watershed, provided that projects may be carried out under the powers granted in chapter 112 or 473 and sections 106A.005 to 106A.811 and that proceedings of the board with respect to the systems must be in conformance with the watershed plan adopted under section 473.878; and

(e) other powers necessary to exercise the authority under clauses (a) to (c), including the power to enter into contracts for the performance of functions with governmental units or persons.

Subd. 2. **Review of watershed boundaries.** Before commencing planning under section 473.878, a watershed management organization established pursuant to section 471.59 and this section shall submit a map delineating the boundaries of the watershed to the board of water and soil resources for review and comment on the conformance of the boundaries with the requirements of sections 473.875 to 473.883. The board shall have 60 days to comment.

Subd. 3. **Jurisdiction over nonmembers.** A watershed management organization established by agreement pursuant to subdivision 1 may exercise the authority provided in the agreement throughout the watershed delineated, including territory in statuto-

ry and home rule charter cities and towns that are not members of the organization, if the cities and towns that are not members consent to the exercise of authority within their jurisdictions and if the membership of the organization includes:

(a) the county or counties having jurisdiction over all of the territory of the watershed that is within the cities and towns that are not members of the organization; and

(b) either cities and towns having jurisdiction over at least 50 percent of the land area of the watershed and comprising at least three-quarters of all of the cities and towns having territory in the watershed, or cities and towns having jurisdiction over at least 75 percent of the land area of the watershed.

The county or counties identified in clause (a) are responsible for watershed management activities and may exercise authority under sections 473.875 to 473.883 in and for consenting cities and towns that are not members of the organization.

History: 1982 c 509 s 20; 1982 c 642 s 14; 1984 c 411 s 4; 1985 c 172 s 130; 1987 c 358 s 122

473.8771 WATERSHED DISTRICTS; BOUNDARY CHANGE; TERMINATION.

Subdivision 1. Boundary change. The boundaries of a watershed district wholly within the metropolitan area may be changed pursuant to this subdivision or chapter 112. The governing board of a watershed management organization may petition the board of water and soil resources for an order changing the boundaries of a watershed district wholly within the metropolitan area, either by adding new territory to the district or by transferring territory that is within the district to the jurisdiction of another watershed management organization. The petition must:

(a) describe with particularity the change in boundary requested, the territory affected, and the reasons for the change;

(b) show that the change is consistent with the purposes and requirements of sections 473.875 to 473.883; and

(c) identify any property subject to subdivision 3.

The petition must be accompanied by a written statement of concurrence in the petition from the governing body of each statutory or home rule charter city and town and each watershed management organization having jurisdiction over the territory proposed to be added or transferred. Upon the filing of a sufficient petition, the board shall give notice of the filing of the petition by publication once each week for two successive weeks in a legal newspaper in each county affected and by mail to the county auditor of each county affected and to the chief official of each statutory or home rule charter city and township affected. The notice must describe the action proposed by the petition and invite written comments on the petition for consideration by the board. The notice must announce that any person who objects to the action proposed in the petition may submit a written request for hearing to the board within 20 days of the last publication of the notice of the filing of the petition and that if no timely request for hearing is received the board will make a decision on the petition pursuant to this subdivision without conducting the public hearing required under chapter 112. If no timely request for hearing is received the board shall make a decision on the petition without a hearing within 30 days after the last publication of the notice. If one or more timely requests for hearing are received the board shall hold a hearing on the petition and shall follow the procedures in chapter 112 regarding notice and conduct of hearings. After completing the procedures required by this subdivision, the board shall, by its findings and order, make the boundary change requested if the board determines that:

(i) the governing body of each statutory or home rule charter city and town and each watershed management organization having jurisdiction over the territory proposed to be added or transferred concurs in the petition,

(ii) the change is consistent with the purposes and requirements of sections 473.875 to 473.883, and

(iii) the change can be accomplished in conformance with subdivision 3.

The board shall file a certified copy of the findings and order with the secretary of state. The order making the change must conform to subdivision 3. The order making the change may amend the order prescribing the distribution of managers of the district.

Subd. 2. Termination. A watershed district wholly within the metropolitan area may be terminated pursuant to this subdivision or chapter 112. Proceedings for termination under this subdivision must be initiated by a petition to the board of water and soil resources filed jointly by the governing bodies of all statutory and home rule charter cities and towns having jurisdiction over territory within the watershed. Upon the filing of a sufficient petition, the board shall hold a hearing in accordance with the procedures prescribed in chapter 112, to take testimony on the determinations required to be made by the board. Following the hearing, the board shall, by its findings and order, terminate the district as requested if the board determines:

(a) that the local units of government having jurisdiction over territory within the watershed have formed a joint powers organization for the watershed pursuant to section 473.877,

(b) that upon termination of the district the members of the joint powers organization, jointly or severally, are willing and able to assume ownership of the district's assets and the responsibility for managing and maintaining the district's projects as necessary to accomplish the purposes of sections 473.875 to 473.883 and to implement the watershed plan of the joint powers organization to be developed pursuant to section 473.878, and

(c) that the termination can be accomplished in conformance with subdivision 3. The board shall file a certified copy of the findings and order with the secretary of state. The order terminating the district must transfer the assets of the district to the joint powers organization or its members. The order must conform to subdivision 3.

Subd. 3. Limitation. The addition or transfer of property or termination of a district pursuant to this section must not affect the benefits or damages for any improvement previously constructed by the district having jurisdiction over the property before the board's order. The property affected is and remains liable for its proper share of any outstanding indebtedness of the watershed district applying to the property before the board's order, and levies and assessments for the indebtedness continue in force until the debt is fully paid. In order to satisfy the requirements of this subdivision, the board may prescribe conditions on the boundary change or termination or may prescribe a later effective date for the termination of specified powers of a watershed district.

History: 1984 c 411 s 5; 1987 c 358 s 123,124

473.878 WATERSHED PLANS.

Subdivision 1. Requirement. A watershed management plan is required for watersheds comprising all minor watershed units within the metropolitan area. For the purposes of this section a minor watershed unit shall be considered within the metropolitan area if more than 90 percent of its area is within the metropolitan area. The watershed management plan shall be prepared, adopted, and implemented in accordance with the requirements of sections 473.875 to 473.883.

Subd. 1a. Optional participation. Local government units, within or outside of the metropolitan area, having territory that is not subject to the requirements of this section but that is within a watershed part of which is subject to the requirements of this section, may enter into an agreement under section 473.877. A local government unit that enters into an agreement under this subdivision has the duties imposed and the authority granted in sections 473.875 to 473.883.

Subd. 2. Responsible units. Where a watershed management organization exists, the plan for the watershed shall be prepared and adopted by the organization. If a watershed management organization is not established by July 1, 1985, for any minor watershed unit located wholly outside of Hennepin and Ramsey counties, the county

or counties containing the watershed unit shall prepare, adopt and implement the watershed plan and for this purpose the county or counties have the planning, review, permitting, and financing authority of a watershed management organization specified in sections 473.877 to 473.883. If a watershed management organization is not established by July 1, 1985, for any minor watershed unit within the metropolitan area and wholly or partly within Hennepin or Ramsey counties, the county or counties containing the watershed unit shall petition for the establishment of a watershed district under chapter 112, provided, however, that a district established pursuant to such a petition shall not cross a primary river nor a river forming the boundary between a metropolitan county and a county outside the metropolitan area, shall have boundaries which are based upon negotiations among all local government units which may have territory within the district and adjacent watersheds and shall not cross county boundaries to include territory whose distinguishing characteristic is multiple drainage points into a primary river. A watershed management organization may request a county to prepare all or part of a plan. A county may delegate the preparation of all or part of a plan to the county soil and water conservation district. Upon request of a statutory or home rule charter city or town, a county may delegate the preparation of all or part of a plan to the city or town.

Subd. 3. **General standards.** (a) The watershed management plan shall extend through the year 1990 or any year thereafter which is evenly divisible by five.

(b) The plan must be updated before the expiration of the period covered by the plan. The plan must be reviewed for consistency with an adopted county ground water plan, and revised as necessary, whenever the watershed plan undergoes substantial revision or updating. In counties that adopt or amend ground water plans within five years following August 1, 1987, watershed plans must be reviewed for consistency with the county ground water plan, and revised as necessary, not later than six years following August 1, 1987. In counties that adopt or amend ground water plans after five years following August 1, 1987, watershed plans must be reviewed for consistency with the county ground water plan, and revised as necessary, not later than one year following the adoption or amendment of the ground water plan. Upon the request of a watershed management organization, the county shall provide a written statement that: (1) identifies any substantial inconsistencies between the watershed plan and the ground water plan and any substantial adverse effects of the watershed plan on the ground water plan, and (2) evaluates, estimates the cost of, and recommends alternatives for amending the watershed plan to rectify any substantial inconsistencies and adverse effects.

(c) The plan shall contain the elements required by subdivision 4. Each element shall be set out in the degree of detail and prescription necessary to accomplish the purposes of sections 473.875 to 473.883, considering the character of existing and anticipated physical and hydrogeologic conditions, land use, and development and the severity of existing and anticipated water management problems in the watershed.

(d) The plan shall be prepared and submitted for review under subdivision 5 not later than December 31, 1986.

(e) Existing plans of a watershed management organization shall remain in force and effect until amended or superseded by plans adopted under sections 473.875 to 473.883. Existing or amended plans of a watershed management organization which meet the requirements of sections 473.875 to 473.883 may be submitted for review under subdivision 5.

Subd. 3a. **Additional organizations.** Any portion of the metropolitan area that is not in a watershed management organization by July 1, 1985, as required by subdivision 2, has until July 1, 1986, to form an organization. Notwithstanding the requirements of subdivision 3, a watershed management organization formed under this subdivision has until December 31, 1987, to prepare and submit a plan for review.

Subd. 4. **Contents.** The plan shall:

(a) describe the existing physical environment, land use, and development in the area and the environment, land use, and development proposed in existing local and metropolitan comprehensive plans;

(b) present information on the hydrologic system and its components, including any drainage systems previously constructed under sections 106A.005 to 106A.811, and existing and potential problems related thereto;

(c) state objectives and policies, including management principles, alternatives and modifications, water quality, and protection of natural characteristics;

(d) set forth a management plan, including the hydrologic and water quality conditions that will be sought and significant opportunities for improvement;

(e) describe the effect of the plan on existing drainage systems;

(f) describe conflicts between the watershed plan and existing plans of local government units;

(g) set forth an implementation program consistent with the management plan, which includes a capital improvement program and standards and schedules for amending the comprehensive plans and official controls of local government units in the watershed to bring about conformance with the watershed plan; and

(h) set out a procedure for amending the plan.

Subd. 5. Local review. (a) Upon completion of the plan but before final adoption by the organization, the organization shall submit the plan for review and comment to all counties, soil and water conservation districts, towns, and statutory and home rule charter cities having territory within the watershed. Any local government unit which expects that substantial amendment of its local comprehensive plan will be necessary in order to bring local water management into conformance with the watershed plan shall describe as specifically as possible, within its comments, the amendments to the local plan which it expects will be necessary. If the county has a ground water plan, the county shall review and comment on the consistency of the watershed plan with the county ground water plan. Differences among local governmental agencies regarding the plan must be mediated.

(b) Sixty days after the submission to local government units for comment, the organization shall submit the plan, any comments received, and any appropriate amendments to the plan, to the board of the county or counties having territory within the watershed. The county shall approve or disapprove projects in the capital improvement program which may require the provision of county funds pursuant to section 112.60, subdivision 2, or 473.883. The county shall have 60 days to complete its review of the capital improvement program. If the county fails to complete its review within the prescribed period, unless an extension is agreed to by the organization the program shall be deemed approved. If the watershed extends into more than one county and one or more counties disapprove of all or part of a capital improvement program while the other county or counties approve, the program shall be submitted to the board of water and soil resources for review pursuant to subdivision 7.

Subd. 6. Review by metropolitan council. After completion of the review under subdivision 5, the plan and all comments received shall be submitted to the metropolitan council for review. Notwithstanding any provision to the contrary in sections 112.46 and 473.165, the council shall review the plan in the same manner and with the same authority and effect as provided for the council's review of the comprehensive plans of local government units under section 473.175. The council shall comment on the apparent conformity with metropolitan system plans of any anticipated amendments to local comprehensive plans. The council may mediate and attempt to resolve differences among local governmental agencies regarding the plan.

Subd. 7. Review by state agencies. After completion of the review under subdivision 6, the plan and all comments received shall be submitted to the commissioners of natural resources and health and the commissioner of the pollution control agency for review and comment on the consistency of the plan with state laws and rules relating to water and related land resources, and to the board of water and soil resources for review under section 112.46. Except as otherwise provided in this subdivision, the board of water and soil resources shall review the plan as provided in section 112.46. The board shall review the plan for conformance with the requirements of chapter 112

and sections 473.875 to 473.883. The board shall not prescribe a plan, but may disapprove all or parts of a plan which it determines is not in conformance with the requirements of chapter 112 and sections 473.875 to 473.883. If the capital improvement program is the subject of a dispute between counties, the board of water and soil resources shall make a final decision on the issue. The decision shall be binding on the organization and the counties involved.

Subd. 8. Adoption; implementation. The organization shall adopt and implement its plan within 120 days after compliance with the provisions of subdivision 7 and approval of the plan by the board of water and soil resources. A watershed district may implement its approved plan and approved capital improvement program by resolution of the majority of the board of managers and without respect to the provisions of chapter 112 requiring the managers to wait upon petitions for projects, to submit projects for review by the board of water and soil resources, and to limit the cost and purposes of projects.

Subd. 9. Amendments. To the extent and in the manner required by the adopted plan, all amendments to the adopted plan shall be submitted to the towns, cities, county, and other agencies for review in accordance with the provisions of subdivisions 5, 6, and 7. Amendments necessary to revise the plan to be consistent with county ground water plan, as required by subdivision 3, must be submitted for review in accordance with subdivisions 5, 6, and 7.

History: 1982 c 509 s 21; 1984 c 411 s 6-9; 1985 c 172 s 131; 1986 c 389 s 1; 1987 c 186 s 15; 1987 c 207 s 7-11; 1987 c 358 s 34,125,126; 1987 c 384 art 3 s 42

473.8785 GROUND WATER PLANS.

Subdivision 1. Authority. A metropolitan county may prepare and adopt ground water plans in accordance with this section.

Subd. 2. Responsible units. The county may prepare and adopt the plan or, upon request of a soil and water conservation district, the county may delegate to the soil and water conservation district the preparation and adoption of all or part of a plan and the performance of other county responsibilities regarding the plan under this section and section 473.878.

Subd. 3. Local coordination. To assure the coordination of efforts of all units of government during the preparation and implementation of watershed and ground water plans, the county shall conduct meetings with local units of government and watershed management organizations, and may enter into agreements with local units of government and watershed management organizations establishing the responsibilities during the preparation and implementation of the water plans.

Subd. 4. Assistance; advisory committee. The county may contract with the Minnesota geological survey, the United States Geological Survey, a soil and water conservation district, or other public or private agencies or persons for services in performing the county's responsibilities regarding the plan under this section and section 473.878. Counties may enter into agreements with other counties or local units of government under section 471.59 for the performance of these responsibilities. To assist in the development of the ground water plan, the county shall seek the advice of the Minnesota geological survey, the departments of health and natural resources, the pollution control agency, and other appropriate local, state, and federal agencies, and shall name an advisory committee of 15 members. The committee must include representatives of various interests, including construction, agriculture, hydrogeology, and well drilling. At least four members of the committee must be from the public at large with no direct pecuniary interest in any project involving ground water protection. At least seven members must be appointed from watershed management organizations, statutory and home rule charter cities, and towns, and these local government representatives must be geographically distributed so that at least one is appointed from each county commissioner district. The county shall consult the advisory committee on the development, content, and implementation of the plan, including the relationship of the ground water plan and existing watershed and local water manage-

ment plans, the effect of the ground water plan on the other plans, and the allocation of costs and governmental authority and responsibilities during implementation.

Subd. 5. General standards. The ground water plan must extend through the year 1995 or any year thereafter which is evenly divisible by five. The plan must contain the elements required by subdivision 6. Each element must be set out in the degree of detail and prescription necessary to accomplish the purposes of sections 473.875 to 473.883, considering the character of existing and anticipated physical and hydrogeologic conditions, land use, and development and the severity of existing and anticipated ground water management problems in the county. To the fullest extent possible in a manner consistent with ground water protection, a county shall make maximum use of existing and available data and studies in preparing the ground water plan and incorporate into its ground water plan relevant data from existing plans and studies and the relevant provisions of existing plans adopted by watershed management organizations having jurisdiction wholly or partly within the county.

Subd. 6. Contents. A ground water plan must:

- (1) cover the entire area within the county;
- (2) describe existing and expected changes to the physical environment, land use, and development in the county;
- (3) summarize available information about the ground water and related resources in the county, including existing and potential distribution, availability, quality, and use;
- (4) state the goals, objectives, scope, and priorities of ground water protection in the county;
- (5) contain standards, criteria, and guidelines for the protection of ground water from pollution and for various types of land uses in environmentally sensitive areas, critical areas, or previously contaminated areas;
- (6) describe relationships and possible conflicts between the ground water plan and the plans of other counties, local government units, and watershed management organizations in the affected ground water system;
- (7) set forth standards and guidelines for implementation of the plan by watershed management organizations and local units of government; and
- (8) include a procedure for amending the ground water plan.

Subd. 7. Local review and comment. Upon completion of the ground water plan but before final adoption by the county, the county shall submit the plan for review and comment to each soil and water conservation district, town, statutory and home rule charter city, and watershed management organization having territory within the county. The county also shall submit the plan to any other county or watershed management organization or district in the affected ground water system that could affect or be affected by implementation of the plan. Any political subdivision or watershed management organization that expects that substantial amendment of its plans would be necessary in order to bring them into conformance with the county ground water plan shall describe as specifically as possible, within its comments, the amendments that it expects would be necessary and the cost of amendment and implementation. Reviewing entities have 60 days to review and comment. Differences among local governmental agencies regarding the plan must be mediated.

Subd. 8. Review by metropolitan council. After completion of the review under subdivision 7, the plan and all comments received must be submitted to the metropolitan council for review. Notwithstanding any provision to the contrary in sections 112.46 and 473.165, the council shall review the plan in the same manner and with the same authority and effect as provided for the council's review of the comprehensive plans of local government units under section 473.175. The council shall comment on the apparent conformity with metropolitan system plans of any anticipated amendments to watershed plans and local comprehensive plans. The council shall summarize and evaluate the cost of rectifying inconsistencies between the ground water plan and watershed plans. If the council finds that significant funding problems, needs, or

inequities will result from the ground water plan, the council shall report to the legislature on the matter and on appropriate means of allocating and paying costs. The council may mediate and attempt to resolve differences among local governmental agencies regarding the plan.

Subd. 9. Review by state agencies. After completion of the review under subdivision 8, the plan and all comments received must be submitted to the commissioners of natural resources and health and the commissioner of the pollution control agency for review and comment on the consistency of the plan with state laws and rules relating to water and related land resources, and to the board of water and soil resources for review under section 112.46. Except as otherwise provided in this subdivision, the board of water and soil resources shall review the plan as provided in section 112.46. The board shall review the plan for conformance with the requirements of chapter 112 and sections 473.875 to 473.883. The board may not prescribe a plan but may disapprove all or parts of a plan which it determines is not in conformance with the requirements of chapter 112 and sections 473.875 to 473.883.

Subd. 10. Adoption; implementation. The county shall adopt and implement its ground water plan within 120 days after approval of the plan by the board of water and soil resources.

Subd. 11. Amendments. To the extent and in the manner required by the adopted plan, all amendments to the adopted plan must be submitted to the towns, cities, counties, and other agencies for review in accordance with the provisions of subdivisions 7 to 9.

History: 1987 c 186 s 15; 1987 c 207 s 12; 1987 c 358 s 34; 1987 c 384 art 3 s 42

473.879 LOCAL WATER MANAGEMENT PLANS.

Subdivision 1. Requirement. After the watershed plan is approved and adopted, or amended, pursuant to section 473.878, the local government units having land use planning and regulatory responsibility for territory within the watershed shall prepare or cause to be prepared a local water management plan, capital improvement program, and official controls as necessary to bring local water management into conformance with the watershed plan within the time period prescribed in the implementation program of the watershed plan and, as necessary, shall prepare or cause to be prepared amendments to the local comprehensive plan. Each town within the counties of Anoka, Carver, Dakota, Scott, and Washington authorized by general or special law to plan and regulate the use of land under sections 462.351 to 462.364 shall by resolution determine whether to prepare the local water management plan itself or to delegate all or part of the preparation of the plan to the county. Towns within counties which have adopted comprehensive plans applicable to the town shall use county preparation of their plan to the maximum extent possible.

Subd. 2. Standards; contents. Each local plan, in the degree of detail required in the watershed plan, shall:

- (a) Describe existing and proposed physical environment and land use;
- (b) Define drainage areas and the volumes, rates, and paths of stormwater runoff;
- (c) Identify areas and elevations for stormwater storage adequate to meet performance standards established in the watershed plan;
- (d) Define water quality and water quality protection methods adequate to performance standards established in the watershed plan;
- (e) Identify regulated areas; and
- (f) Set forth an implementation program, including a description of official controls and, as appropriate, a capital improvement program.

Subd. 3. Review. After consideration but before adoption by the governing body, each local unit shall submit its water management plan to the watershed management organization for review for consistency with the watershed plan adopted pursuant to section 473.878. The organization shall approve or disapprove the local plan or parts

thereof. The organization shall have 60 days to complete its review. If the organization fails to complete its review within the prescribed period, unless an extension is agreed to by the local unit the local plan shall be deemed approved.

Subd. 4. Adoption; implementation. After approval of the local plan by the organization, the local government unit shall adopt and implement its plan within 120 days and shall amend its official controls accordingly within 180 days.

Subd. 5. Amendments. To the extent and in the manner required by the organization, all amendments to local water management plans shall be submitted to the organization for review and approval in accordance with the provisions of subdivision 3 for the review of plans.

History: 1982 c 509 s 22

473.881 EXEMPTION FROM LEVY LIMIT.

Any levy to pay the increased costs to a local government unit or watershed management organization of implementing sections 473.878 and 473.879 or to pay costs of improvements and maintenance of improvements identified in an approved and adopted plan shall be in addition to any other taxes authorized by law and shall be disregarded in the calculation of limits on taxes imposed by chapter 275, except levies pursuant to section 473.883, subdivision 7, for taxes payable in 1985 and thereafter. Notwithstanding any provision to the contrary in chapter 112, a watershed district may levy a tax sufficient to pay the increased costs to the district of implementing sections 473.878 and 473.879. The proceeds of any tax levied under this section shall be deposited in a separate fund and expended only for the purposes authorized by this section.

History: 1982 c 509 s 23

473.882 SPECIAL TAX DISTRICT.

Subdivision 1. Watershed management tax district. Any local government unit planning for water management under sections 473.878 and 473.879 may establish a watershed management tax district in the territory within the watershed, for the purpose of paying the costs of the planning required under sections 473.878 and 473.879. Any local government unit which has part of its territory within a watershed for which a plan has been adopted in accordance with section 473.878 and which has a local water management plan adopted in accordance with section 473.879 may establish a watershed management tax district in the territory within the watershed or a minor watershed unit in the watershed, for the purpose of paying capital costs of the water management facilities described in the capital improvement program of the plans and for the purpose of paying for normal and routine maintenance of the facilities. A county or counties required by section 473.878, subdivision 2, to prepare, adopt, and implement a watershed plan shall apportion the costs of planning, capital improvements, and maintenance proportionate to benefits. The county may apportion the costs among the minor watershed units in the watershed, or among the statutory and home rule charter cities and towns having territory in the watershed, and for this purpose may establish more than one watershed management tax district in the watershed.

Subd. 2. Procedure. The district shall be established by ordinance adopted after a hearing. Notice of the time, place, and purpose of the hearing shall be published for two successive weeks in the official newspaper of the local government unit, ending at least seven days before the day of the hearing. The ordinance shall describe with particularity the territory or area to be included in the district. After adoption, the ordinance shall be filed with the county auditor and county recorder. The district may be dissolved by following the procedures prescribed for the establishment of the district.

Subd. 3. Tax. After adoption of the ordinance under subdivision 2, a local government unit may annually levy a tax on all taxable property in the district for the purposes for which the tax district is established. The tax levied may not exceed one

mill on property located in rural towns other than urban towns, unless allowed by resolution of the town electors. The proceeds of the tax shall be paid into a fund reserved for these purposes. Any proceeds remaining in the reserve fund at the time the tax is terminated or the district is dissolved shall be transferred and irrevocably pledged to the debt service fund of the local unit to be used solely to reduce tax levies for bonded indebtedness of taxable property in the district. A tax levied in accordance with this subdivision for paying capital costs is a levy for the payment of principal and interest on bonded indebtedness within the meaning of section 275.50, subdivision 5, clause (e).

Subd. 4. **Bonds.** After adoption of the ordinance under subdivision 2, and after a contract for the construction of all or part of an improvement has been entered into or the work has been ordered done by day labor, the local government unit may issue obligations in the amount it deems necessary to pay in whole or in part the capital cost incurred and estimated to be incurred in making the improvement. The obligations shall be payable out of the proceeds of the tax levied pursuant to subdivision 3. The local unit may by resolution of its governing body adopted prior to the sale of obligations pledge the full faith, credit and taxing power of the local unit to assure payment of the principal and interest in the event the proceeds of the tax levy in the district are insufficient to pay principal and interest. The amount of any taxes which are required to be levied outside of the territory of the tax district or taken from the general funds of the local unit to pay principal and interest on the obligations shall be reimbursed to the local unit from taxes levied within the territory of the tax district. Obligations shall be issued in accordance with chapter 475, except that an election is not required and the amount of any obligations shall not be included in determining the net indebtedness of the local unit under the provisions of any law or charter limiting indebtedness.

History: 1982 c 509 s 24; 1984 c 411 s 10; 1985 c 236 s 6; 1986 c 389 s 2,3

473.883 WATERSHED MANAGEMENT ORGANIZATION; CAPITAL IMPROVEMENTS; PAYMENT BY COUNTY.

Subdivision 1. **General authority.** The authority provided to watershed districts in this section is in addition to the authority provided in chapter 112. A watershed management organization which has adopted a watershed plan in accordance with section 473.878 may certify for payment by the county as provided in this section all or any part of the cost of a capital improvement contained in the capital improvement program of the plan.

Subd. 2. **Procedure.** A copy of the plan for the improvement shall be forwarded to the county board. The organization shall then hold a public hearing on the proposed improvement, following publication once each week for two successive weeks before the date of the hearing in a legal newspaper published in the county or counties in which a part or all of the affected waters and lands are located. The last publication shall occur not more than 30 days nor less than ten days before the hearing. The notice shall state the time and place of hearing, the general nature of the proposed improvement, the estimated cost, and the method by which the cost of the improvement is to be paid, including the cost to be allocated to each county or minor watershed unit under subdivision 3. The cost must be apportioned according to the benefits received by property in the county. Not less than ten days before the hearing, notice by mail shall be given to the counties and to each home rule charter or statutory city or town located wholly or partly within the territory of the watershed management organization. Failure to give mailed notice or defects in the notice shall not invalidate the proceedings. At the time and place specified in the notice the organization shall hear all parties interested in the proposed improvement. If upon full hearing the organization finds that the improvement will be conducive to public health and promote the general welfare, and is in compliance with sections 473.875 to 473.883 and the plan adopted pursuant to section 473.878, it shall make findings accordingly, determine the cost of the improvement, and, before October 1, certify the cost to the county or counties for payment.

Subd. 3. Apportionment of costs. If the territory of the watershed management organization extends into more than one county, the cost of the improvement shall be certified to the respective county boards in the proportions prescribed in the capital improvement program of the organization. The certification of the watershed management organization may apportion the cost among some or all of the minor watershed units in the watershed and for this purpose may require the establishment of more than one tax district in the watershed.

Subd. 4. County payment. Each county receiving certifications for payment from watershed management organizations pursuant to this section shall promptly after September 30 of each year provide funds to meet its proportionate share of the cost of the improvements as shown in the certifications by organizations received during the prior 12 months. In an emergency and after receipt of certification the county shall provide funds at any other time. When an organization anticipates an emergency it shall promptly inform the county and provide it with appropriate information.

Subd. 5. Bonds. In order to make the payment required by subdivision 4, the county board of each county may issue general obligation bonds of the county in the amount necessary to pay all or part of the cost of improvements certified to the county board or to refund general obligation bonds issued for this purpose. The bonds shall be sold, issued, and secured in accordance with the provisions of chapter 475 for general obligation bonds, except as otherwise provided in this subdivision. No election shall be required.

Subd. 6. Tax. For the payment of principal and interest on the bonds issued under subdivision 5 and the payment required under subdivision 4, the county shall irrevocably pledge and appropriate the proceeds of an ad valorem tax levied on all taxable property located within the territory of the watershed management organization or minor watershed unit for which the bonds are issued. Each year until the reserve for payment of the bonds is sufficient to retire the bonds, the county shall levy on all taxable property in the territory of the organization or unit, without respect to any statutory or other limitation on taxes, an amount of taxes sufficient to pay principal and interest on the bonds and to restore any deficiencies in reserves required to be maintained for payment of the bonds. The tax levied on rural towns other than urban towns may not exceed one mill, unless approved by resolution of the town electors. If at any time the amounts available from the levy on property in the territory of the organization are insufficient to pay principal and interest on the bonds when due, the county shall make payment from any available funds in the county treasury. The amount of any taxes which are required to be levied outside of the territory of the watershed management organization or unit or taken from the general funds of the county to pay principal or interest on the bonds shall be reimbursed to the county from taxes levied within the territory of the watershed management organization or unit.

Subd. 7. Maintenance levy. For the purpose of creating a maintenance fund to be used for normal and routine maintenance of a work of improvement constructed in whole or part with money provided by the county pursuant to subdivision 4, the board of managers of a watershed district, with the approval of the county, may impose an ad valorem levy on all property located within the territory of the watershed district or minor watershed unit. The levy shall be certified, levied, collected, and distributed as provided in section 112.611, and shall be in addition to any other money levied and distributed to the district thereunder. The proceeds of the levy shall be deposited in a separate maintenance and repair account to be used only for the purpose for which the levy was made.

History: 1982 c 509 s 25; 1986 c 389 s 4-7; 1988 c 533 s 1,2