

CHAPTER 85A

MINNESOTA ZOOLOGICAL GARDEN

85A.001 Purpose.
 85A.01 Creation; organization.
 85A.02 Powers and duties.

85A.04 Zoological garden accounts operating receipts.
 85A.05 Minnesota state zoological garden bonds.

85A.001 PURPOSE.

It is the intent of the legislature to foster a partnership between the private sector and the state for the purpose of operating a zoological garden. The legislature seeks to enable the Minnesota zoological garden to operate independently, efficiently, and economically and to be active in soliciting nonstate contributions. The legislature seeks to have the food and beverage facilities at the zoological garden operated in a manner designed to respond to the food and beverage service demands of visitors while maximizing the economic benefits accruing to the zoological garden from the operation of food and beverage facilities.

History: *1Sp1985 c 13 s 201; 1987 c 206 s 1*

85A.01 CREATION; ORGANIZATION.

Subdivision 1. The Minnesota zoological garden is established under the supervision and control of the Minnesota zoological board. The board consists of 30 public and private sector members having a background or interest in zoological societies or zoo management or an ability to generate community interest in the Minnesota zoological garden. Fourteen members shall be appointed by the board after consideration of a list supplied by board members serving on a nominating committee, and 15 members shall be appointed by the governor. To the extent possible, the board and governor shall appoint members who are residents of the various geographic regions of the state. Terms, compensation, and removal of members are as provided in section 15.0575. In making appointments, the governor and board shall utilize the appointment process as provided under section 15.0597 and consider, among other factors, the ability of members to garner support for the Minnesota zoological garden. One member shall be appointed by the Dakota county board who must be a resident of Dakota county and who may be a member of the county board.

A member of the board may not be an employee of or have a direct or immediate family financial interest in a business that provides goods or services to the zoo. A member of the board may not be an employee of the zoo.

Subd. 1a. [Repealed, 1Sp1985 c 13 s 376 subd 3]

Subd. 1b. The board shall design and maintain a schedule of admission fees that will encourage maximum year-round visitor attendance. The board shall, if practical, maintain facilities at the zoological garden to accommodate overnight groups of visitors from the nonmetropolitan area.

Subd. 2. The board shall annually elect from among its members a chair and other officers necessary for the performance of its duties.

Subd. 3. The director, officers and employees are included in the meaning of state employee under the provisions of section 352.01, subdivision 2A.

Subd. 4. The board shall meet at such times and places as it may determine.

Subd. 5. Members of the board are not required to file a statement of economic interest with the state ethical practices board under section 10A.09.

History: *1969 c 868 s 1; 1976 c 134 s 19-21; 1977 c 368 s 1; 1983 c 301 s 102; 1983 c 305 s 13; 1Sp1985 c 13 s 202,203,374; 1986 c 444; 1987 c 206 s 2-4*

85A.02 POWERS AND DUTIES.

Subdivision 1. The board shall possess the powers and shall be charged with the duties and responsibilities prescribed in this section.

Subd. 2. The board shall acquire, construct, equip, operate and maintain the Minnesota zoological garden at a site in Dakota county legally described in Laws 1975, chapter 382, section 12. The zoological garden shall consist of adequate facilities and structures for the collection, habitation, preservation, care, exhibition, examination or study of wild and domestic animals, including, but not limited to mammals, birds, fish, amphibians, reptiles, crustaceans and mollusks. The board may provide such lands, buildings and equipment as it deems necessary for parking, transportation, entertainment, education or instruction of the public in connection with such zoological garden.

Subd. 3. The board may conduct research studies and programs, collect and analyze data and prepare reports, maps, charts and other information relating to the zoological garden or any wild or domestic animals or may contract for any of such services without complying with chapter 16B.

Subd. 4. The board may appoint an advisory task force consisting of persons who are members of zoological societies or who have shown a background or interest in such societies or zoo management or an ability to generate community support for the Minnesota zoological garden. The task force expires as provided in section 15.059, subdivision 6.

Subd. 5. The board may accept and use gifts, grants or contributions from any nonstate source. Unless otherwise restricted by the terms of a gift or bequest, the board may sell, exchange, or otherwise dispose of, and invest or reinvest the money, securities, or other property given or bequeathed to it from nonstate sources. The principal of these funds, the income from them, and all other revenues received by it from any nonstate source must be placed in the depositories the board determines and is subject to expenditure for the board's purposes. Any additional operating expenses incurred by virtue of capital development projects must be paid for with funds other than state appropriations.

Subd. 5a. **Employees.** (a) The board shall appoint an administrator who shall serve as the executive secretary and principal administrative officer of the board and, subject to its approval, the administrator shall operate the Minnesota zoological garden and enforce all rules and policy decisions of the board. The administrator must be chosen solely on the basis of training, experience, and other qualifications appropriate to the field of zoo management and development. The board shall set the compensation for the administrator within the limits established for the commissioner of agriculture in section 15A.081, subdivision 1. The administrator shall perform duties assigned by the board and shall serve in the unclassified service at the pleasure of the board. The board, with the participation of the private sector, shall appoint a development director in the unclassified service or contract with a development consultant to establish mechanisms to foster community participation in and community support for the Minnesota zoological garden. The board may employ other necessary professional, technical, and clerical personnel.

(b) The board may contract with individuals to perform professional services and may contract for the purchases of necessary species exhibits, supplies, services, and equipment.

Subd. 5b. **Exemptions.** Except as it determines, and except as provided in subdivisions 16 and 17, the board is not subject to chapters 15, 15A, 16A, and 16B concerning budgeting, payroll, and the purchase of goods or services. The board is not subject to chapter 14 concerning administrative procedures except sections 14.38, subdivision 7, and 14.39 to 14.43 relating to the legal status of rules and the legislative review of rules.

Subd. 5c. **Financial report.** The board shall employ a certified public accountant to audit and examine its financial records each year. The board shall submit to the legislative auditor a report of the accountant's examination or audit. The legislative

auditor shall review the report and accept it or make additional examinations if these would be in the public interest. The working papers of the certified public accountant relating to the board must be made available to the legislative auditor on request.

Subd. 6. Lands necessary for any of the purposes enumerated in this section may be acquired by eminent domain proceedings under the authority of chapter 117.

Subd. 7. The board may enact rules governing the efficient protection of the Minnesota zoological garden and the related facilities and the conduct of persons entering therein. Notwithstanding subdivision 5b, rules shall become effective in the manner provided by law for the promulgation of rules by state departments and agencies. The violation of a rule promulgated by the board under this section is a petty misdemeanor. The board may specify that violation of a designated rule shall be sufficient cause for ejection from the grounds of the zoological garden.

Subd. 8. [Repealed, 1973 c 207 s 6]

Subd. 9. The board shall comply with all federal laws and any rules or regulations prescribed by any agency of the federal government, relating to the quarantine, transportation, examination, habitation, care, and treatment of wild animals. The department of natural resources may prescribe rules supplemental to such federal regulations, relating to the transportation, examination, care, and treatment of wild animals native to this state held or proposed to be acquired by the board and may inspect all such wild animals as often and at such times as it shall deem necessary.

Subd. 10. The board shall not be subject to the provisions of chapters 17, 19, 97, 98, 99, 100, and 101, and section 343.21, subdivision 8, relating to purchase, barter, sale, possession, breeding, or transporting wild animals.

Subd. 11. The board shall have all powers necessary or convenient to discharge the duties imposed upon it by law, and to operate the zoological garden in the manner which will best serve the public.

Subd. 12. The board shall report to the legislature by September 15 of each year on the activities of the board and the operation of the zoological garden. The report must summarize the activities of the board and the Minnesota zoological garden over the preceding fiscal year ending June 30. The report must be submitted together with the financial report required by subdivision 5c.

Subd. 13. The board may acquire by gift, purchase, or condemnation any real estate, not previously acquired and conveyed to the state by the county of Dakota, necessary to complete the zoo site as described in Laws 1975, chapter 382, section 12 or to meet United States department of agriculture certification requirements. Funds from the Minnesota zoological garden building account may be expended for the acquisitions.

Subd. 14. The board may sell or exchange animals determined by it to be superfluous to zoo operations, subject to all state and federal regulations.

Subd. 15. The board may provide for promotional and advertising programs which may be developed and implemented either by zoological garden personnel or by contract with outside personnel and which shall be paid for out of funds other than bond revenues.

Subd. 16. The board may acquire by lease-purchase or installment purchase contract, transportation systems, facilities and equipment that it determines will substantially enhance the public's opportunity to view, study or derive information concerning the animals to be located in the zoological garden, and will increase attendance at the garden. The contracts may provide for: (1) the payment of money over a 12-year period, or over a longer period not exceeding 25 years if approved by the board; (2) the payment of money from any funds of the board not pledged or appropriated for another purpose; (3) indemnification of the lessor or seller for damage to property or injury to persons due primarily to the actions of the board or its employees; (4) the transfer of title to the property to the board upon execution of the contract or upon payment of specified amounts; (5) the reservation to the lessor or seller of a security interest in the property; and (6) any other terms that the board determines to be commercially

reasonable. Property so acquired by the board, and its purchase or use by the board, or by any nonprofit corporation having a concession from the board requiring its purchase, shall not be subject to taxation by the state or its political subdivisions. Each contract shall be subject to the provisions of chapter 16B, relating to competitive bidding, provided that the board is not required to readvertise for competitive proposals for any transportation system, facilities and equipment heretofore selected from competitive proposals taken pursuant to subdivision 18.

Subd. 17. Additional powers. The board may establish a schedule of charges for admission to or the use of the Minnesota zoological garden or any related facility. The board shall have a policy encouraging the admission of elementary school children at no charge when part of an organized school activity. The board may provide for the purchase, reproduction, and sale of gifts, souvenirs, publications, informational materials, food and beverages, and grant concessions for the sale of these items.

Subd. 18. Purchasing. The board may contract for supplies, materials, purchase or rental of equipment, and utility services. Chapter 16B does not apply to these contracts. However, contracts shall be awarded on the basis of competitive bids to the lowest responsible bidder, taking into consideration conformity with the specifications, terms of delivery, and other conditions imposed in the call for bids. Competitive bidding is not required for purchases clearly and legitimately limited to a single source of supply; the purchase price may then be established by direct negotiation. Competitive bids are not required for utility services if no competition exists or if rates are fixed by law or ordinance. The board may contract for consultant, professional, and technical services without regard to sections 16B.17 and 16B.19.

History: 1969 c 868 s 2; 1969 c 1129 art 10 s 2; 1973 c 207 s 1,4; 1974 c 406 s 60; 1975 c 382 s 2,3; 1977 c 455 s 78; 1979 c 333 s 75; 1980 c 433 s 1; 1985 c 248 s 70; 1Sp1985 c 13 s 204-214; 1987 c 404 s 105; 1988 c 629 s 16

85A.03 [Repealed, 1Sp1985 c 13 s 376]

85A.04 ZOOLOGICAL GARDEN ACCOUNTS OPERATING RECEIPTS.

Subdivision 1. Deposit. All receipts from the operation of the Minnesota zoological garden shall be deposited in the state treasury and credited to a zoo fund. Investment income and investment losses attributable to investment of the zoo fund must be credited to the zoo fund. Money in the zoo fund is appropriated to the board for the operation of the Minnesota zoological garden.

Subd. 1a. [Repealed, 1979 c 333 s 108]

Subd. 1b. [Repealed, 1979 c 333 s 108]

Subd. 2. Minnesota zoological garden building account. A Minnesota zoological garden building account is created in the state building fund, for the purpose of providing money to the Minnesota zoological board for the acquisition and betterment of public land, buildings, and improvements of a capital nature needed for the Minnesota zoological garden; including but not limited to interest to accrue during the period of the construction thereof on money borrowed by the state for such construction. On November 1 in each year prior to the completion of the Minnesota zoological garden and related facilities the balance, if any, on hand in this account in excess of the amount determined by the board to be needed for the payment of claims then due and payable, encumbrances, and projected expenditures for necessary expenses of such completion shall be transferred to the state zoological garden bond account in the state bond fund, to the amount required for compliance with section 85A.05, subdivision 4. Proceeds of state bonds and income from investment of that money credited to this fund are appropriated for land acquisition, animal acquisition, construction, and other permanent improvement and shall be available until the purposes for which the appropriation was made have been accomplished or abandoned, and none of such money shall be canceled. Income from investment of such money shall be credited to this account in each fiscal year. When the purpose of any such appropriation has been accomplished or abandoned, the Minnesota zoological board shall so certify to the commissioner of

finance. Thereupon the unexpended balance of such appropriation, unless transferred under authority of the appropriation act to another purpose therein designated, shall be transferred and credited to the state bond fund. Amounts so transferred and credited are appropriated for the purpose of reducing the amount of tax otherwise required to be levied for the state bond fund by article XI, section 7, of the constitution, or for reimbursing the bond fund for amounts previously transferred to the state zoological garden bond account so as to eliminate any prior deficiency covered by the state bond fund, the general fund in the state treasury, or through a tax levy.

Subd. 3. [Repealed, 1Sp1985 c 13 s 376]

Subd. 4. **Zoo ride account.** All receipts from the operation of the zoo ride shall be deposited in a special account in the state treasury. All receipts from the zoo ride are appropriated to the board for the purposes of the zoo ride. These receipts are the only money appropriated for zoo ride operating expenses or debt service.

History: 1969 c 868 s 4; 1973 c 207 s 2; 1973 c 492 s 14; 1975 c 382 s 6-9; 1976 c 2 s 172; 1977 c 455 s 79; 1979 c 333 s 78,79; 1981 c 356 s 277,278; 1983 c 301 s 103,104; 1984 c 597 s 40; 1Sp1985 c 13 s 215,374; 1987 c 404 s 106

85A.05 MINNESOTA STATE ZOOLOGICAL GARDEN BONDS.

Subdivision 1. **Purpose and appropriation.** For the purpose of providing money appropriated to the Minnesota zoological board from the Minnesota zoological garden building account for the acquisition and betterment of public land, buildings, and improvements of a capital nature, when authorized by law and requested by the board, the commissioner of finance shall sell and issue bonds of the state of Minnesota for the prompt and full payment of which, with interest thereon, the full faith, credit, and taxing powers of the state are irrevocably pledged. The proceeds of such bonds shall be credited to the building account, except that accrued interest and any premium received on sale of the bonds shall be credited to the state bond fund account referred to in subdivision 4, together with any additional sum directed to be so credited by any law authorizing an issue of such bonds. Bonds shall be issued pursuant to this section only as authorized by subdivision 6 or by another law in accordance with the provisions of the constitution, article XI, section 7. Any law authorizing the issuance of bonds in the manner provided in this section shall, together with this section, constitute complete authority for such issue, and such bonds shall not be subject to restrictions or limitations contained in any other law.

Subd. 2. **Issuance of bonds.** Upon request by resolution of the Minnesota zoological board and upon authorization as provided in subdivision 1 the commissioner of finance shall sell and issue Minnesota zoological garden bonds in the aggregate amount requested, upon sealed bids and upon such notice, at such price, in such form and denominations, bearing interest at such rate or rates, maturing in such amounts and on such dates, without option of prepayment or subject to prepayment upon such notice and at such times and prices, payable at such bank or banks within or outside the state, with such provisions for registration, conversion, and exchange and for the issuance of notes in anticipation of the sale or delivery of definitive bonds, and in accordance with such further rules, as the commissioner of finance shall determine, subject to the approval of the attorney general, but not subject to the provisions of sections 14.02, 14.04 to 14.36, 14.38, 14.44 to 14.45, and 14.57 to 14.62. The bonds shall be executed by the commissioner of finance and attested by the state treasurer under their official seals. The signatures of the officers on the bonds and any appurtenant interest coupons and their seals may be printed, lithographed, engraved, or stamped thereon, except that each bond shall be authenticated by the manual signature on its face of one of the officers or of an officer of a bank designated by them as authenticating agent. The commissioner of finance shall ascertain and certify to the purchasers of the bonds the performance and existence of all acts, conditions, and things necessary to make them valid and binding general obligations of the state of Minnesota, subject to the approval of the attorney general.

Subd. 3. **Expenses.** All expenses incidental to the sale, execution, delivery and

other expenses of bonds pursuant to this section, including but not limited to actual and necessary travel and subsistence expenses of state officers and employees for such purposes, shall be paid from the Minnesota zoological garden building account, and the amounts necessary therefor are appropriated from that account; provided that if any amount is specifically appropriated for this purpose in an act authorizing the issuance of bonds pursuant to this section, such expenses shall be limited to the amount so appropriated.

Subd. 4. Minnesota state zoological garden bond account in the state bond fund. The commissioner of finance shall maintain in the state bond fund a separate book-keeping account which shall be designated as the state zoological garden bond account, to record receipts and disbursements of money transferred to the fund to pay Minnesota zoological garden bonds and income from the investment of such money, which income shall be credited to the account in each fiscal year. The amounts directed by section 85A.04, subdivision 2 to be transferred annually to this bond account are appropriated thereto, and the legislature may also appropriate to the bond account any other money in the state treasury not otherwise appropriated. On November 1 of each year there shall be transferred to the bond account all of the money then available under any such appropriation or such lesser sum as will be sufficient, with all money previously transferred to the account and all income from the investment of such money, to pay all principal and interest then and theretofore due and all principal and interest to become due to and including July 1 in the second ensuing year on Minnesota zoological garden bonds. All money so transferred and all income from the investment thereof shall be available for the payment of such bonds and interest thereon, and so much thereof as may be necessary is appropriated for such payments. The state auditor and treasurer are directed to make the appropriate entries in the accounts of the respective funds.

Subd. 5. Tax levy. On or before December 1 in each year the state auditor shall levy on all taxable property within the state whatever tax may be necessary to produce an amount sufficient, with all money then and theretofore credited to the Minnesota zoological garden bond account, to pay the entire amount of principal and interest then and theretofore due and principal and interest to become due on or before July 1 in the second year thereafter on Minnesota zoological garden bonds. This tax shall be subject to no limitation of rate or amount until all such bonds and interest thereon are fully paid. The proceeds of this tax are appropriated and shall be credited to the state bond fund, and the principal of and interest on the bonds are payable from such proceeds, and the whole thereof, or so much as may be necessary, is appropriated for such payments. If at any time there is insufficient money from the proceeds of such taxes to pay the principal and interest when due on Minnesota zoological garden bonds, such principal and interest shall be paid out of the general fund in the state treasury, and the amount necessary therefor is hereby appropriated, with such sums from tax levies and the general fund subject to future reimbursement to the bond fund by the Minnesota zoological garden bond account as indicated in section 85A.04, subdivision 2.

Subd. 6. Bond authorization and appropriations. For the purpose of providing money for the acquisition and betterment of public land, buildings, and improvements of a capital nature needed for the Minnesota zoological garden in accordance with the comprehensive plan of the Minnesota zoological board adopted in accordance with section 85A.02, subdivision 2, the commissioner of finance is directed to sell and issue Minnesota zoological garden bonds in the amount of \$23,025,000 in the manner and upon the conditions provided in subdivisions 1 to 5. The commissioner of finance may sell or issue an additional \$2,350,000 of bonds, but no part thereof shall be expended unless equally matched by other than state appropriations. Any gifts, grants, or contributions accepted pursuant to section 85A.02, subdivision 5, other than contribution of lands by governmental entities, for the establishment or operation of the Minnesota zoological garden, whether in cash or in kind, shall be considered as matching funds. Noncash items shall be tangible real or personal property and shall be attributed as matching funds according to their fair market value at the time of

MINNESOTA STATUTES 1988

receipt. The bonds may include a sum representing interest to accrue on the bonds from and after its date of issue through the anticipated period of construction and development of the zoological garden, which sum is needed for the payment and security of the interest payments during that period, but in no event shall the bonds exceed the maximum amount stated above. The bonds shall be sold, issued, and secured as provided in subdivisions 1 to 5 and in article XI, section 7, of the constitution, except that none of the bonds of any series issued pursuant to this authorization shall mature earlier than one year after the date of completion of the Minnesota zoological garden and related facilities as estimated by the Minnesota zoological board at the time of the issuance of such series. The proceeds of the bonds, except premium and accrued interest, are appropriated to the Minnesota zoological garden building account for expenditure by the Minnesota zoological board for the purpose for which the bonds are authorized in accordance with the provisions of section 85A.04, subdivision 2. In order to reduce the amount of taxes otherwise required by the constitution to be levied for the payment of interest and principal on the bonds, there is also appropriated annually to the Minnesota state zoological bond account in the state bond fund from the general fund a sum of money sufficient in amount, when added to the balance on hand on November 1 in each year in the bond account, to pay all principal and interest due and to become due on the bonds to and including July 1 in the second ensuing year. The money received and on hand pursuant to this annual appropriation is available in the state bond fund prior to the levy of the tax in any year required by the constitution and by subdivision 5 and shall be used to reduce the amount of the tax otherwise required to be levied.

History: 1973 c 207 s 3; 1973 c 492 s 14; 1975 c 382 s 10,11; 1976 c 2 s 172; 1979 c 333 s 80-82; 1982 c 424 s 130; 1985 c 248 s 70; 1Sp1985 c 13 s 374; 1Sp1985 c 14 art 4 s 8