

CHAPTER 465

RIGHTS, POWERS AND DUTIES; MUNICIPALITIES

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465.722 SEVERANCE PAY FOR HIGHLY COMPENSATED EMPLOYEES.

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

(a) "Local unit of government" means a statutory or home rule charter city, county, town, school district, metropolitan or regional agency, or other political subdivision.

(b) "Wages" has the meaning provided by section 3401(a) of the Internal Revenue Code of 1986, as amended through December 31, 1992.

(c) "Highly compensated employee" means an employee of a local unit of government with estimated annual wages that:

- (1) are greater than 60 percent of the governor's annual salary; and
- (2) are equal to, or greater than, 80 percent of the estimated annual wages of the second highest paid employee of the local unit of government.

Subd. 2. **Limits on severance pay.** Notwithstanding any contrary provision of section 465.72, subdivision 1, severance pay for a highly compensated employee includes benefits or compensation with a quantifiable monetary value, that are provided for an employee upon termination of employment and are not part of the employee's annual wages and benefits and are not specifically excluded by this subdivision. Severance pay shall not include payments for accumulated vacation, accumulated sick leave, and accumulated sick leave liquidated to cover the cost of group term insurance provided under section 471.61 to retiring employees. Severance pay for a highly compensated employee does not include payments of periodic contributions by an employer toward premiums for group insurance policies. The severance pay for a highly compensated employee must be excluded from retirement deductions and from any calculations of retirement benefits. Severance pay for a highly compensated employee must be paid in a manner mutually agreeable to the employee and the governing body of the local unit of government over a period not to exceed five years from retirement or termination of employment. If a retired or terminated employee dies before all or a portion of the severance pay has been disbursed, the balance due must be paid to a named beneficiary or, lacking one, to the deceased's estate. Except as provided in subdivision 3, severance pay provided for a highly compensated employee leaving employment may not exceed an amount equivalent to six months of wages.

Subd. 3. **Exceptions to maximum allowable severance pay for a highly compensated employee.** Severance pay for a highly compensated employee may exceed an amount equivalent to six months of wages if:

- (1) the severance pay benefit is included in an employment contract between the employee and the local unit of government that is in effect on August 1, 1993, and the termination of employment occurs before the expiration date of said contract;
- (2) the severance pay is part of an early retirement incentive offer approved by the governing body of the local unit of government and the same early retirement incentive offer is also made available to all other employees of the local unit of government who meet generally defined criteria relative to age or length of service;

(3) the governing body of a local unit of government adopts a resolution certifying that:

(i) the highly-compensated employee was a full-time employee of the local unit of government for the entire period between January 1, 1983, and December 31, 1992;

(ii) the highly-compensated employee was covered by one or more employment contracts or agreements which entitled the employee to specified severance pay benefits throughout the entire ten-year period specified in clause (i);

(iii) the employment contract or agreement in effect on December 31, 1992, will, at the time of the employee's separation from employment with the local unit of government, result in a severance payment that exceeds the limits specified in subdivision 2; and

(iv) the amount of severance pay that exceeds the limits specified in subdivision 2 was based on a commitment to provide the employee with a specified severance guarantee in lieu of a higher level of some other form of compensation; or

(4) the commissioner of employee relations has determined a position within a specific local unit of government requires special expertise necessitating a larger severance pay guarantee to attract or retain a qualified person. The commissioner shall develop a process for the governing body of a local unit of government to use when applying for an exemption under this clause. The commissioner shall review each proposed exemption giving due consideration to severance pay guarantees that are made to other persons with similar responsibilities in the state and nation.

Nothing in this subdivision shall be deemed to allow total severance payments for a highly compensated employee that exceed the limits established in section 465.72.

Subd. 4. Governing body must approve certain payments; time for rescission. Notwithstanding section 13.43, subdivision 2, any payment to a highly compensated employee for settling disputed claims, whether or not the claims have been filed, or any payment to a highly compensated employee for terminating a written employment contract, must be approved by the governing body of the local unit of government during a public meeting. The financial terms of a payment made pursuant to this subdivision must be made public at the meeting. The effective date of the governing body's approval of a payment made pursuant to this subdivision shall be 15 days after the date of the public meeting. The governing body of a local unit of government approving a payment pursuant to this subdivision, or the employee to whom the payment is to be made, may rescind or reject the payment, prior to the effective date of the governing body's approval.

History: 1993 c 315 s 15

465.74 AUTHORIZATION TO OPERATE DISTRICT HEATING SYSTEMS.

Subdivision 1. Cities of the first class. Any city operating or authorized to operate a public utility pursuant to chapter 452 or its charter is authorized to acquire, construct, own, and operate a municipal district heating system pursuant to the provisions of that chapter or its charter. Acquisition or construction of a municipal district heating system shall not be subject to the election requirement of sections 452.11 and 452.12, or city charter provision, but must be approved by a three-fifths vote of the city's council or other governing body. Loans obtained by a municipality pursuant to Minnesota Statutes 1992, section 216C.36, are not subject to the limitations on the amount of money which may be borrowed upon a pledge of the city's full faith and credit or the election requirements for general obligation borrowing, contained in section 452.08.

[For text of subds 1a to 3, see M.S.1992]

Subd. 4. Net debt limits. The loan obligations or debt incurred by a political subdivision pursuant to section 475.525, or Minnesota Statutes 1992, section 216C.36, shall not be considered as a part of its indebtedness under the provisions of its governing charter or of any law of this state fixing a limit of indebtedness.

[For text of subd 5, see M.S.1992]

Subd. 6. **Definition.** For the purposes of this section, and chapters 474 and 475, "district heating system" means any existing or proposed facility for (1) the production, through cogeneration or otherwise, of hot water or steam to be used for district heating, or (2) the transmission and distribution of hot water or steam for district heating either directly to heating consumers or to another facility or facilities for transmission and distribution, or (3) any part or combination of the foregoing facilities.

In keeping with the public purpose to encourage state and local leadership and aid in providing available and economical district heating service, the definition of "district heating system" under this section should be broadly construed to allow municipal government sufficient flexibility and authority to evaluate and undertake such policies and projects as will most efficiently and economically encourage local expansion of district heating service.

[For text of subs 7 to 9, see M.S.1992]

History: 1993 c 327 s 19-21

BOARD OF GOVERNMENT INNOVATION AND COOPERATION

465.795 DEFINITIONS.

Subdivision 1. **Agency.** "Agency" means a department, agency, board, or other instrumentality of state government that has jurisdiction over an administrative rule or law from which a waiver is sought under section 465.797. If no specific agency has jurisdiction over such a law, "agency" refers to the attorney general.

Subd. 2. **Board.** "Board" means the board of government innovation and cooperation established by section 465.796.

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

Subd. 4. **Local government unit.** "Local government unit" means a county, home rule charter or statutory city, school district, town, or special taxing district, except for purposes of sections 465.81 to 465.87.

Subd. 5. **Metropolitan agency.** "Metropolitan agency" has the meaning given in section 473.121, subdivision 5a.

Subd. 6. **Metropolitan area.** "Metropolitan area" has the meaning given in section 473.121, subdivision 2.

Subd. 7. **Scope.** As used in sections 465.795 to 465.799 and sections 465.80 to 465.87, the terms defined in this section have the meanings given them.

History: 1993 c 375 art 15 s 1

465.796 BOARD OF GOVERNMENT INNOVATION AND COOPERATION.

Subdivision 1. **Membership.** The board of government innovation and cooperation consists of three members of the senate appointed by the subcommittee on committees of the senate committee on rules and administration, three members of the house of representatives appointed by the speaker of the house, two administrative law judges appointed by the chief administrative law judge, the commissioner of finance, the commissioner of administration, and the state auditor. The commissioners of finance and administration and the state auditor may each designate one staff member to serve in the commissioner's or auditor's place. The members of the senate and house of representatives serve as nonvoting members.

Subd. 2. **Duties of board.** The board shall:

(1) accept applications from local government units for waivers of administrative rules and temporary, limited exemptions from enforcement of procedural requirements in state law as provided in section 465.797, and determine whether to approve, modify, or reject the application;

(2) accept applications for grants to local government units and related organizations proposing to design models or plans for innovative service delivery and management as provided in section 465.798 and determine whether to approve, modify, or reject the application;

(3) accept applications from local government units for financial assistance to enable them to plan for cooperative efforts as provided in section 465.799, and determine whether to approve, modify, or reject the application;

(4) accept applications from eligible local government units for service-sharing grants as provided in section 465.80, and determine whether to approve, modify, or reject the application;

(5) accept applications from counties, cities, and towns proposing to combine under sections 465.81 to 465.87, and determine whether to approve or disapprove the application; and

(6) make recommendations to the legislature regarding the elimination of state mandates that inhibit local government efficiency, innovation, and cooperation.

The board may purchase services from the metropolitan council in reviewing requests for waivers and grant applications.

Subd. 3. Staff. The board may hire staff or consultants as necessary to perform its duties.

History: 1993 c 375 art 15 s 2

465.797 RULE AND LAW WAIVER REQUESTS.

Subdivision 1. Generally. (a) Except as provided in paragraph (b), a local government unit may request the board of government innovation and cooperation to grant a waiver from one or more administrative rules or a temporary, limited exemption from enforcement of state procedural laws governing delivery of services by the local government unit. Two or more local government units may submit a joint application for a waiver or exemption under this section if they propose to cooperate in providing a service or program that is subject to the rule or law. Before submitting an application to the board, the governing body of the local government unit must approve the waiver or exemption request by resolution at a meeting required to be public under section 471.705.

(b) A school district that is granted a variance from rules of the state board of education under section 121.11, subdivision 12, need not apply to the board for a waiver of those rules under this section. A school district may not seek a waiver of rules under this section if the state board of education has authority to grant a variance to the rules under section 121.11, subdivision 12. This paragraph does not preclude a school district from being included in a cooperative effort with another local government unit under this section.

Subd. 2. Application. A local government unit requesting a waiver of a rule or exemption from enforcement of a law under this section shall present a written application to the board. The application must include:

(1) identification of the service or program at issue;

(2) identification of the administrative rule or the law imposing a procedural requirement with respect to which the waiver or exemption is sought;

(3) a description of the improved service outcome sought, including an explanation of the effect of the waiver or exemption in accomplishing that outcome;

(4) a description of the means by which the attainment of the outcome will be measured; and

(5) if the waiver or exemption is proposed by a single local government unit, a description of the consideration given to intergovernmental cooperation in providing this service, and an explanation of why the local government unit has elected to proceed independently.

A copy of the application must be provided by the requesting local government unit to the exclusive representative of its employees as certified under section 179A.12.

Subd. 3. Review process. Upon receipt of an application from a local government unit, the board shall review the application. The board shall dismiss or request modification of an application within 60 days of its receipt if it finds that (1) the application does not meet the requirements of subdivision 2, or (2) the application should not be granted because it clearly proposes a waiver of rules or exemption from enforcement of laws that would result in due process violations, violations of federal law or the state or federal constitution, or the loss of services to people who are entitled to them. If the application is submitted by a local government unit in the metropolitan area or the unit requests a waiver of a rule or temporary, limited exemptions from enforcement of a procedural law over which the metropolitan council or a metropolitan agency has jurisdiction, the board shall also transmit a copy of the application to the council for review and comment. The council shall report its comments to the board within 60 days of the date the application was transmitted to the council. The council may point out any resources or technical assistance it may be able to provide a local government submitting a request under this section. If it does not dismiss the application, the board shall transmit a copy of it to the commissioner of each agency having jurisdiction over a rule or law from which a waiver or exemption is sought. The agency may mail a notice that it has received an application for a waiver or exemption to all persons who have registered with the agency under section 14.14, subdivision 1a, identifying the rule or law from which a waiver or exemption is requested. If no agency has jurisdiction over the rule or law, the board shall transmit a copy of the application to the attorney general. If the commissioner of finance, the commissioner of administration, or the state auditor has jurisdiction over the rule or law, the chief administrative law judge shall appoint a second administrative law judge to serve as a member of the board in the place of that official for purposes of determining whether to grant the waiver or exemption. The agency shall inform the board of its agreement with or objection to and grounds for objection to the waiver or exemption request within 60 days of the date when the application was transmitted to it. Interested persons may submit written comments to the board on the waiver or exemption request within 60 days of the board's receipt of the application. If the agency fails to inform the board of its conclusion with respect to the application within 60 days of its receipt, the agency is deemed to have agreed to the waiver or exemption. If the exclusive representative of the employees of the requesting local government unit objects to the waiver or exemption request it may inform the board of the objection to and the grounds for the objection to the waiver or exemption request within 60 days of the receipt of the application.

Subd. 4. Hearing. If the agency or the exclusive representative does not agree with the waiver or exemption request, the board shall set a date for a hearing on the application, which may be no earlier than 90 days after the date when the application was transmitted to the agency. The hearing must be conducted informally at a meeting of the board. Persons representing the local government unit shall present their case for the waiver or exemption, and persons representing the agency shall explain the agency's objection to it. Members of the board may request additional information from either party. The board may also request, either before or at the hearing, information or comments from representatives of business, labor, local governments, state agencies, consultants, and members of the public. If necessary, the hearing may be continued at a subsequent board meeting. A waiver or exemption must be granted by a vote of a majority of the board members. The board may modify the terms of the waiver or exemption request in arriving at the agreement required under subdivision 5.

Subd. 5. Conditions of agreements. If the board grants a request for a waiver or exemption, the board and the local government unit shall enter into an agreement providing for the delivery of the service or program that is the subject of the application. The agreement must specify desired outcomes and the means of measurement by which the board will determine whether the outcomes specified in the agreement have been met. The agreement must specify the duration of the waiver or exemption, which may be for no less than two years and no more than four years, subject to renewal if both parties agree. A waiver of a rule under this section has the effect of a variance granted by an agency under section 14.05, subdivision 4. A local unit of government that is

granted an exemption from enforcement of a procedural requirement in state law under this section is exempt from that law for the duration of the exemption. The board may require periodic reports from the local government unit, or conduct investigations of the service or program.

Subd. 6. Enforcement. If the board finds that the local government unit is failing to comply with the terms of the agreement under subdivision 5, it may rescind the agreement. Upon the rescission, the local unit of government becomes subject to the rules and laws covered by the agreement.

Subd. 7. Access to data. If a local government unit, through a cooperative program under this section, gains access to data collected, created, received, or maintained by another local government that is classified as not public, the unit gaining access is governed by the same restrictions on access to and use of the data as the unit that collected, created, received, or maintained the data.

History: 1993 c 375 art 15 s 3

465.798 SERVICE BUDGET MANAGEMENT MODEL GRANTS.

One or more local units of governments, an association of local governments, the metropolitan council, or an organization acting in conjunction with a local unit of government may apply to the board of government innovation and management for a grant to be used to develop models for innovative service budget management. Proposed models may provide options to local governments, neighborhood or community organizations, or individuals for managing budgets for service delivery. A copy of the work product for which the grant was provided must be furnished to the board upon completion, and the board may disseminate it to other local units of government or interested groups. If the board finds that the model was not completed or implemented according to the terms of the grant agreement, it may require the grantee to repay all or a portion of the grant. The amount of a grant under this section shall not exceed \$50,000.

History: 1993 c 375 art 15 s 4

465.799 COOPERATION PLANNING GRANTS.

Two or more local government units may apply to the board of government innovation and cooperation for a grant to be used to develop a plan for intergovernmental cooperation in providing services. The grant application must include the following information:

(1) the identity of the local government units proposing to enter into the planning process;

(2) a description of the services to be studied and the outcomes sought from the cooperative venture; and

(3) a description of the proposed planning process, including an estimate of its costs, identification of the individuals or entities who will participate in the planning process, and an explanation of the need for a grant to the extent that the cost cannot be paid out of the existing resources of the local government unit.

The plan may include model contracts or agreements to be used to implement the plan. A copy of the work product for which the grant was provided must be furnished to the board upon completion. If the board finds that the grantee has failed to implement the plan, it may require the grantee to repay all or a portion of the grant. The amount of a grant under this section shall not exceed \$50,000.

History: 1993 c 375 art 15 s 5

465.80 SERVICE SHARING GRANTS.

Subdivision 1. Scope. This section establishes a program for grants to local government units to enable them to meet the start-up costs of providing shared services or functions.

Subd. 2. Eligibility. Any local government unit that provides a plan for offering

a governmental service under a joint powers agreement with another local government unit, or with an agency of state government, is eligible for a grant under this section, and is referred to in this section as an "eligible local government unit."

[For text of subd 3, see M.S.1992]

Subd. 4. Submission of plan to board. The plan must be submitted to the board of government innovation and cooperation. A copy of the plan must also be provided by the requesting local government units to the exclusive representatives of the employees as certified under section 179A.12. The board will approve a plan only if it contains the elements set forth in subdivision 3, with sufficient information to verify the assertions under clauses (2) and (3). The board may request modifications of a plan. If the board rejects a plan, written reasons for the rejection must be provided, and a governmental unit may modify the plan and resubmit it.

Subd. 5. Grants. The amount of each grant shall be equal to the additional start-up costs for which evidence is presented under subdivision 3, clause (3). Only one grant will be given to a local government unit for any function or service it proposes to combine with another government unit, but a unit may apply for separate grants for different services or functions it proposes to combine. If the amount of money available for making the grants is not sufficient to fully fund the grants to eligible local government units with approved plans, the board shall award grants on the basis of each qualified applicant's score under a scoring system to be devised by the board to measure the relative needs for the grants and the ratio of costs to benefits for each proposal.

History: 1993 c 375 art 15 s 6-9

465.81 COOPERATION AND COMBINATION.

[For text of subd 1, see M.S.1992]

Subd. 2. Definitions. As used in sections 465.81 to 465.87, the words defined in this subdivision have the meanings given them in this subdivision.

"Board" means the board of government innovation and cooperation.

"City" means home rule charter or statutory cities.

"Governing body" means, in the case of a county, the county board; in the case of a city, the city council; and, in the case of a town, the town board.

"Local government unit" or "unit" includes counties, cities, and towns.

[For text of subd 3, see M.S.1992]

History: 1993 c 375 art 15 s 10

465.82 COOPERATION AND COMBINATION PLAN.

Subdivision 1. Adoption and state agency review. Each governing body that proposes to combine under sections 465.81 to 465.87 must adopt by resolution a plan for cooperation and combination. The plan must address each item in this section. The plan must be specific for any item that will occur within three years and may be general or set forth alternative proposals for an item that will occur more than three years in the future. The plan must be submitted to the board of government innovation and cooperation for review and comment. For a metropolitan area local government unit, the plan must also be submitted to the metropolitan council for review and comment. The council may point out any resources or technical assistance it may be able to provide a governing body submitting a plan under this subdivision. Significant modifications and specific resolutions of items must be submitted to the board and council, if appropriate, for review and comment. In the official newspaper of each local government unit proposed for combination, the governing body must publish at least a summary of the adopted plans, each significant modification and resolution of items, and the results of each board and council, if appropriate, review and comment.

[For text of subd 2, see M.S.1992]

History: 1993 c 375 art 15 s 11

465.83 STATE AGENCY APPROVAL.

Before scheduling a referendum on the question of combining local government units under section 465.84, the units shall submit the plan adopted under section 465.82 to the board. Metropolitan area units shall also submit the plan to the metropolitan council for review and comment. The board may require any information it deems necessary to evaluate the plan. The board shall disapprove the proposed combination if it finds that the plan is not reasonably likely to enable the combined unit to provide services in a more efficient or less costly manner than the separate units would provide them, or if the plans or plan modification are incomplete. If the combination of local government units is approved by the board under this section, the local units are not required to proceed under chapter 414 to accomplish the combination.

History: 1993 c 375 art 15 s 12

465.87 AIDS TO COOPERATING AND COMBINING UNITS.

Subdivision 1. **Eligibility.** A local government unit is eligible for aid under this section if the board has approved its plan to cooperate and combine under section 465.83.

Subd. 1a. **Additional eligibility.** A local government unit is eligible for aid under this section if it has combined with another unit of government in accordance with chapter 414 and a copy of the municipal board's order combining the two units of government is forwarded to the board.

[For text of subds 2 and 3, see M.S.1992]

History: 1993 c 375 art 15 s 13,14