

CHAPTER 465

RIGHTS, POWERS AND DUTIES; MUNICIPALITIES

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465.039 GIFTS TO ORGANIZATIONS DISTRIBUTING FOOD.

The governing body of a home rule charter or statutory city may appropriate each year out of the general fund of the city, or other unrestricted money, an amount to be determined by the governing body to provide grants to nonprofit organizations operating community food shelves that provide food to the needy without charge.

History: 1995 c 109 s 1

465.73 TOWN HALLS; FIRE HALLS OR RESCUE EQUIPMENT; LOANS TO POLITICAL SUBDIVISIONS.

For purposes of constructing, repairing, or acquiring town halls, fire halls or fire or rescue equipment any city, county, or town may borrow up to \$250,000 from funds granted to a rural electric cooperative organized under chapter 308A by, directly from or guaranteed by the Farmers Home Administration or other agency of the United States Department of Agriculture on a note secured by a mortgage on the property purchased with the borrowed funds. The city, county, or town may assign or pledge revenues from the town halls, fire or rescue department, or fire hall or any other available funds, including taxes levied pursuant to section 475.61 to the Farmers Home Administration or other agency of the United States Department of Agriculture or its guaranteed lender or a rural electric cooperative organized under chapter 308A as its grantee to repay the loan. The amount of the obligation shall not be included when computing the net debt of the city, county, or town. An election shall not be required to authorize the note and mortgage or assignment of revenues.

History: 1995 c 256 s 6

465.795 DEFINITIONS.

[For text of subs 1 to 6, see M.S.1994]

Subd. 7. **Scope.** As used in sections 465.795 to 465.799 and sections 465.801 to 465.88, the terms defined in this section have the meanings given them.

History: 1995 c 264 art 8 s 1

465.796 BOARD OF GOVERNMENT INNOVATION AND COOPERATION.

[For text of subd 1, see M.S.1994]

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 465.801, 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 465.88, and determine whether to approve or disapprove the application;

(6) make recommendations to the legislature for the authorization of pilot projects for the implementation of innovative service delivery activities that require statutory authorization;

(7) make recommendations to the legislature regarding the elimination of state mandates that inhibit local government efficiency, innovation, and cooperation by prescribing specific processes for achieving a desired outcome;

(8) investigate and review the role of unfunded state mandates in intergovernmental relations and assess their impact on state and local government objectives and responsibilities;

(9) make recommendations to the governor and the legislature regarding:

(i) allowing flexibility for local units of government in complying with specific unfunded state mandates for which terms of compliance are unnecessarily rigid or complex;

(ii) reconciling any two or more unfunded state mandates that impose contradictory or inconsistent requirements;

(iii) terminating unfunded state mandates that are duplicative, obsolete, or lacking in practical utility;

(iv) suspending, on a temporary basis, unfunded state mandates that are not vital to public health and safety and that compound the fiscal difficulties of local units of government, including recommendations for initiating the suspensions;

(v) consolidating or simplifying unfunded state mandates or the planning or reporting requirements of the mandates, in order to reduce duplication and facilitate compliance by local units of government with those mandates; and

(vi) establishing common state definitions or standards to be used by local units of government in complying with unfunded state mandates that use different definitions or standards for the same terms or principles; and

(10) identify relevant unfunded state mandates.

The duties imposed under clauses (8) to (10) shall be performed to the extent possible given existing resources. Each recommendation under clause (9) shall, to the extent practicable, identify the specific unfunded state mandates to which the recommendation applies. The commissioners or directors of state agencies responsible for the promulgation or enforcement of the unfunded mandates addressed in clauses (7) to (10) shall assign staff to assist the board in carrying out the board's duties under this section.

[For text of subd 3, see M.S.1994]

History: 1995 c 264 art 8 s 2

465.797 RULE AND LAW WAIVER REQUESTS.

[For text of subds 1 to 4, see M.S.1994]

Subd. 5. Conditions of agreements. (a) 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. The duration of a waiver from an administrative rule may be for no less than two years and no more than four years, subject to renewal if both parties agree. An exemption from enforcement of a law terminates ten days after ad-

jourment of the regular legislative session held during the calendar year following the year when the exemption is granted, unless the legislature has acted to extend or make permanent the exemption.

(b) If the board grants a waiver or exemption, it must report the waiver or exemption to the legislature, including the chairs of the governmental operations and appropriate policy committees in the house and senate, and the governor within 30 days.

(c) The board may reconsider or renegotiate the agreement if the rule or law affected by the waiver or exemption is amended or repealed during the term of the original agreement. 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.

[For text of subs 6 and 7, see M.S.1994]

History: 1995 c 264 art 8 s 3

465.7971 WAIVERS OF STATE RULES; POLICIES.

Subdivision 1. Application. A state agency may apply to the board for a waiver from: (1) an administrative rule or policy adopted by the department of employee relations that deals with the state personnel system; (2) an administrative rule or policy of the department of administration that deals with the state procurement system; or (3) a policy of the department of finance that deals with the state accounting system. Two or more state agencies may submit a joint application. A waiver application must identify the rule or policy at issue, and must describe the improved outcome sought through the waiver.

Subd. 2. Review process. (a) The board shall review all applications submitted under this section. The board shall dismiss an application if it finds that the application proposes a waiver 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 a proposed waiver would violate the terms of a collective bargaining agreement effective under chapter 179A, the waiver is not effective without the consent of the exclusive representative that is a party to the agreement. The board may approve a waiver only if the board determines that if the waiver is granted: (1) services can be provided in a more efficient or effective manner; and (2) services related to human resources must be provided in a manner consistent with the policies expressed in Laws 1995, chapter 248, article 13, section 2, and in section 43A.01 and services related to procurement must be provided in a manner consistent with the policies expressed in Laws 1995, chapter 248, article 13, section 4. In the case of a waiver from a policy of the department of finance, the board may approve the waiver only if it determines that services will be provided in a more efficient or effective manner and that state funds will be adequately accounted for and safeguarded in a manner that complies with generally accepted government accounting principles.

(b) Within 15 days of receipt of the application, the board shall send a copy of the application to: (1) the agency whose rule or policy is involved; and (2) all exclusive representatives who represent employees of the agency requesting the waiver. The agency whose rule or policy is involved may mail a copy of the application to all persons who have registered with the agency under section 14.14, subdivision 1a.

(c) The agency whose rule or policy is involved or an exclusive representative shall notify the board of its agreement with or objection to and grounds for objection to the waiver within 60 days of the date when the application was transmitted to the agency or the exclusive representative. An agency's or exclusive representative's failure to do so is considered agreement to the waiver.

(d) If the agency or the exclusive representative objects to the waiver, the board shall schedule a meeting at which the agency requesting the waiver may present its case for the waiver and the objecting party may respond. The board shall decide whether to grant a waiver at its next regularly scheduled meeting following its receipt of an agency's response, or the end of the 60-day response period, whichever occurs first. If consideration of an application

is not concluded at the meeting, the matter may be carried over to the next meeting of the board. Interested persons may submit written comments to the board on the waiver request.

(e) If the board grants a request for a waiver, the board and the agency requesting the waiver shall enter into an agreement relating to the outcomes desired as a result of the waiver and the means of measurement to determine whether those outcomes have been achieved with the waiver. The agreement must specify the duration of the waiver, which must be for at least two years and not more than four years. If the board determines that an agency to which a waiver is granted is failing to comply with the terms of the agreement, the board may rescind the agreement.

Subd. 3. Board. For purposes of evaluating waiver requests involving rules or policies of the department of administration, the chief administrative law judge shall appoint a third administrative law judge to replace the commissioner of administration on the board.

History: 1995 c 248 art 16 s 1

465.798 SERVICE BUDGET MANAGEMENT MODEL GRANTS.

One or more local units of governments, an association of local governments, the metropolitan council, a local unit of government acting in conjunction with an organization or a state agency, or an organization established by two or more local units of government under a joint powers agreement may apply to the board of government innovation and management for a grant to be used to develop models for innovative service budget management. The application to the board must state what other sources of funding have been considered by the local units of government to implement the project and explain why it is not possible to complete the project without assistance from the board. The board may not award a grant if it determines that the local units of government could complete the project without board assistance. A copy of the application must be provided by the units to the exclusive representatives certified under section 179A.12 to represent employees who provide the service or program affected by the application.

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 board shall award grants on the basis of each qualified applicant's score under the scoring system in section 465.802. The amount of a grant under this section may not exceed \$50,000.

History: 1995 c 264 art 8 s 4

465.799 COOPERATION PLANNING GRANTS.

Two or more local government units; an association of local governments; a local unit of government acting in conjunction with the metropolitan council, an organization, or a state agency; or an organization formed by two or more local units of government under a joint powers agreement 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 application to the board must state what other sources of funding have been considered by the local units of government to implement the project and explain why it is not possible to complete the project without assistance from the board. The board may not award a grant if it determines that the local units of government could complete the project without board assistance. A copy of the application must be submitted by the applicants to the exclusive representatives certified under section 179A.12 to represent employees who provide the service or program affected by the application.

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, and the board may disseminate it to other local units of government or interested groups. If the board finds that the grantee has failed to implement the plan according to the terms of the agreement, it may require the grantee to repay all or a portion of the grant. The board shall award grants on the basis of each qualified applicant's score under the scor-

ing system in section 465.802. The amount of a grant under this section may not exceed \$50,000.

History: 1995 c 264 art 8 s 5

465.801 SERVICE SHARING GRANTS.

Two or more local units of government; an association of local governments; a local unit of government acting in conjunction with the metropolitan council, an organization, or a state agency; or an organization established by two or more local units of government under a joint powers agreement may apply to the board of government innovation and cooperation for a grant to be used to meet the start-up costs of providing shared services or functions. Agreements solely to make joint purchases are not sufficient to qualify under this section. The application to the board must state what other sources of funding have been considered by the local units of government to implement the project and explain why it is not possible to complete the project without assistance from the board. The board may not award a grant if it determines that the local units of government could complete the project without board assistance. A copy of the application must be provided by the applicants to the exclusive representatives certified under section 179A.12 to represent employees who provide the service or program affected by the application.

The proposal must include plans fully to integrate a service or function provided by two or more local government units. 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 grantee has failed to implement the plan according to the terms of the agreement, it may require the grantee to repay all or a portion of the grant. The board shall award grants on the basis of each qualified applicant's score under the scoring system in section 465.802. The amount of a grant under this section may not exceed \$100,000.

History: 1995 c 264 art 8 s 6

465.81 COOPERATION AND COMBINATION.

Subdivision 1. **Scope.** Sections 465.81 to 465.87 establish procedures to be used by counties, cities, or towns that adopt by resolution an agreement providing a plan to provide combined services during an initial cooperation period that may not exceed two years and then to merge into a single unit of government over the succeeding two-year period.

[For text of subs 2 and 3, see M.S.1994]

History: 1995 c 264 art 8 s 7

465.82 COOPERATION AND COMBINATION PLAN.

[For text of subd 1, see M.S.1994]

Subd. 2. **Contents of plan.** The plan must state:

(1) the specific cooperative activities the units will engage in during the first two years of the venture;

(2) the steps to be taken to effect the merger of the governmental units, with completion no later than four years after the process begins;

(3) the steps by which a single governing body will be created;

(4) changes in services provided, facilities used, administrative operations and staffing to effect the preliminary cooperative activities and the final merger and a two-, five-, and ten-year projection of expenditures for each unit if it combined and if it remained separate;

(5) treatment of employees of the merging governmental units, specifically including provisions for reassigning employees, dealing with unions, and providing financial incentives to encourage early retirements;

(6) financial arrangements for the merger, specifically including responsibility for debt service on outstanding obligations of the merging entities;

(7) one- and two-year impact analysis, prepared by the granting state agency at the request of the local government unit, of major state aid revenues received for each unit if it

combined and if it remained separate. This would also include an impact analysis, prepared by the department of revenue, of property tax revenue implications, if any, associated with tax increment financing districts and fiscal disparities resulting from the merger;

(8) procedures for a referendum to be held before the proposed combination to approve combining the local government units, specifically stating whether a majority of those voting in each district proposed for combination or a majority of those voting on the question in the entire area proposed for combination would be needed to pass the referendum; and

(9) a time schedule for implementation.

Notwithstanding clause (3) or any other law to the contrary, all current members of the governing bodies of the local governmental units that propose to combine under sections 465.81 to 465.88 may serve on the initial governing body of the combined unit until a gradual reduction in membership is achieved by foregoing election of new members when terms expire until the number permitted by other law is reached.

History: 1995 c 264 art 8 s 8

465.84 REFERENDUM.

During the first or second year of cooperation, and after approval of the plan by the board under section 465.83, a referendum on the question of combination must be conducted. The referendum must be on a date called by the governing bodies of the units that propose to combine. The referendum must be conducted according to the Minnesota election law, as defined in section 200.01. If the referendum fails, the same question or a modified question may be submitted the following year. If the referendum fails again, the same question may not be submitted. Referendums shall be conducted on the same date in all local government units.

History: 1995 c 264 art 8 s 9

465.85 COUNTY AUDITOR TO PREPARE PLAT.

Upon the request of two or more local government units that have adopted a resolution to cooperate and combine, the county auditor shall prepare a plat. If the proposed combined local government unit is located in more than one county, the request must be submitted to the county auditor of the county that has the greatest land area in the proposed district. The plat must show:

- (1) the boundaries of each of the present units;
- (2) the boundaries of the proposed unit;
- (3) the boundaries of proposed election districts, if requested; and
- (4) other information deemed pertinent by the governing bodies or the county auditor.

History: 1995 c 264 art 8 s 10

465.87 AIDS TO COOPERATING AND COMBINING UNITS.

Subdivision 1. Eligibility. A local government unit is eligible to apply 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 to apply for aid under this section if it has combined with another unit of government in accordance with any process within chapter 414 that results in the elimination of at least one local government unit and a copy of the municipal board's order combining the two units of government is forwarded to the board. If two units of government cooperate in the orderly annexation of the entire area of a third unit of government which has a population of at least 8,000 people, the two units of government are each eligible for the amount of aid specified in subdivision 2.

Subd. 1b. Application procedures. A local government unit covered by subdivision 1 may submit an application to the board along with the final plan for cooperation and combination required by section 465.83. A local government unit covered by subdivision 1a may submit an application to the board after the issuance of the municipal board's order combining the two units of government. The application must be on a form prescribed by the board and must specify the total amount of aid requested up to the maximum authorized by subdivi-

sion 2. The application must also include a detailed explanation of the need for the aid and provide a budget indicating how the requested aid would be used.

Subd. 1c. **Aid award.** The board may grant or deny an application for aid made by a local government unit under subdivision 1b. The board may also grant aid to an applicant in an amount that is less than the amount requested by the applicant. The board shall base its decision on the following criteria:

(1) whether the local government unit has adequately demonstrated that the requested aid is essential to accomplishing the proposed combination;

(2) whether the activities to be funded by the requested aid are directly related to the combination;

(3) whether other sources of funding for the activities identified in the application, including short-term cost savings, are available to the applicant as a direct result of the combination; and

(4) whether there are competing needs for the funding available to the board that would provide a greater public benefit than would be realized by the combination or activities described in the application.

The board may award money to an applicant for a period not to exceed four years. Any funding awarded for a period beyond the biennium in which an award is made, however, is contingent on future appropriations to the board.

Subd. 2. **Amount of aid.** The annual amount of aid to be paid to each eligible local government unit may not exceed the following per capita amounts, based on the combined population of the units, as estimated by the state demographer, or \$100,000, whichever is less.

Combined Population after Combination	Aid Per Capita
0 – 2,500	\$25
2,500 – 5,000	20
5,000 – 20,000	15
over 20,000	10

Payments must be made on the dates provided for payments of local government aid under section 477A.013, beginning in the year during which substantial cooperative activities under the plan initially occur, unless those activities begin after July 1, in which case the initial aid payment must be made in the following calendar year. Payments to a local government unit that qualifies for aid under subdivision 1a must be made on the dates provided for payments of local government aids under section 477A.013, beginning in the calendar year during which a combination in any form is expected to be ordered by the Minnesota municipal board as evidenced in a resolution adopted by July 1 by the affected local government units declaring their intent to combine. The resolutions must certify that the combination agreement addressing all issues relative to the combination is substantially complete. The total amount of aid paid may not exceed the amount appropriated to the board for purposes of this section.

Subd. 3. **Termination of aid; recapture.** If a second referendum under section 465.84 fails, or if an initial referendum fails and the governing body does not schedule a second referendum within one year after the first has failed, or if one or more of the local government units that proposed to combine terminates its participation in the cooperation or combination, no additional aid may be paid under this section. The amount previously paid under this section to a unit must be repaid if the governing body of the unit acts to terminate its current level of participation in the plan. The amount previously paid to the unit must be repaid in annual installments equal to the total amount paid to the unit for all years under subdivisions 1c and 2, divided by the number of years when payments were made.

History: 1995 c 264 art 8 s 11

465.88 PLANNING AID FOR CONSOLIDATION STUDIES.

Two local units of government with a combined population of 2,500 or less based on the most recent decennial census may apply to the board for aid to assist in the study of a possible consolidation or combination. To be eligible for receipt of aid under this section, the two lo-

cal units of government must be subject to a municipal board motion to form a consolidation commission under section 414.041, subdivision 2, or the governing bodies of the local units of government must have approved a resolution expressing their intent to develop and submit a combination plan for consideration by the board. The application must be on a form prescribed by the board and must provide a proposed budget detailing how the requested aid shall be used. The governing bodies of the local units of government must also approve resolutions certifying that the requested aid is essential for paying a portion of the costs associated with the consolidation or combination study. The board may grant up to \$10,000 in aid for each application received.

History: 1995 c 264 art 8 s 12