

CHAPTER 471A

CAPITAL INTENSIVE PUBLIC SERVICES; PRIVATE SUPPLIERS

471A.02 Definitions.
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471A.10 Public employee laws; sale or lease of existing facility.

471A.02 DEFINITIONS.

[For text of subd 1, see M.S.1996]

Subd. 2. [Repealed, 1997 c 7 art 1 s 148]

[For text of subs 3 to 5, see M.S.1996]

Subd. 6. **Capital intensive public services.** "Capital intensive public services" means the prevention, control, and abatement of water pollution through wastewater treatment facilities as defined by section 115.71, subdivision 6, and the furnishing of potable water. Capital intensive public services may be limited (1) to the design and construction, or (2) to the operation and maintenance, by the private vendor of related facilities. Capital intensive public services does not include the furnishing of heating or cooling energy.

[For text of subs 7 to 10, see M.S.1996]

Subd. 11. **Related facilities.** "Related facilities" means all real and personal property used by the private vendor in furnishing capital intensive public services, excluding any product of the related facilities, such as drinking water, furnished under the service contract. Related facilities may be owned by the municipality or the private vendor or jointly by both.

[For text of subd 12, see M.S.1996]

Subd. 13. **Service fee.** "Service fee" means the payments the municipality is required under the service contract to make, or cause to be made, to the private vendor, including payments made by third parties to the private vendor for products or services and credited against payments the municipality would otherwise have to make, or cause to be made, under the service contract. The capital cost component of the service fee may be paid over the term of the service contract or in one or more lump sum payments during the term.

[For text of subd 14, see M.S.1996]

Subd. 15. [Repealed, 1997 c 7 art 1 s 148]

[For text of subd 16, see M.S.1996]

History: 1997 c 111 s 1-3

471A.03 BASIC AUTHORIZATION AND RELATED POWERS.

[For text of subs 1 and 2, see M.S.1996]

Subd. 3. **Procurement procedures.** The municipality may agree under the service contract that the private vendor will acquire, construct, alter, repair, or maintain any and all related facilities without compliance with any competitive bidding requirements. The municipality may enter into the service contract only after requesting from two or more private vendors proposals for the furnishing of the capital intensive public services under terms and conditions the municipality determines to be fair and reasonable. After making the request and receiving any proposals in response to the request, the municipality may negotiate the service contract with any private vendor that responds to the request for proposals.

[For text of subs 4 to 12, see M.S.1996]

History: 1997 c 111 s 4

471A.10 PUBLIC EMPLOYEE LAWS; SALE OR LEASE OF EXISTING FACILITY.

(a) Unless expressly provided therein, and except as provided in this section, no state law, charter provision, or ordinance of a municipality relating to public employees shall apply to a person solely by reason of that person's employment by a private vendor in connection with services rendered under a service contract.

(b) A private vendor purchasing or leasing existing related facilities from a municipality or operating or maintaining the facility shall recognize all exclusive bargaining representatives and existing labor agreements and those agreements shall remain in force until they expire by their terms. Persons who are not employed by a municipality in a related facility at the time of a lease or purchase of the facility by the private vendor are not "public employees" within the meaning of the public employees retirement act, chapter 353. Persons employed by a municipality in a related facility at the time of a lease or purchase of the facility by a private vendor shall continue to be considered to be "public employees" within the meaning of the public employees retirement act, chapter 353, but may elect to terminate their participation in the public employees retirement association as provided in this section. Each such employee may exercise the election annually on the anniversary of the person's initial employment by the municipality. An employee electing to terminate participation in the association is entitled to benefits that the employee would be entitled to if terminating public employment and may participate in a retirement program established by the private vendor.

History: 1997 c 111 s 5