Political Subdivisions, General Provisions

CHAPTER 465

RIGHTS, POWERS AND DUTIES; MUNICIPALITIES

465.01 RIGHT OF EMINENT DOMAIN.

All cities may exercise the right of eminent domain for the purpose of acquiring private property within or without the corporate limits thereof for any purpose for which it is authorized by law to take or hold the same by purchase or gift and may exercise the right of eminent domain for the purpose of acquiring a right of way for sewerage or drainage purposes and an outlet for sewerage or drainage within or without the corporate limits thereof. The procedure

in the event of condemnation shall be that prescribed by chapter 117, or that prescribed by the charter of such city.

History: *(1829) RL s 766; 1917 c 424 s 1; 1973 c 123 art 5 s 7*

465.013 PROPERTY OR EASEMENTS NOT ACQUIRED BY PRESCRIPTION.

No city of the first class or any board or department thereof shall hereafter obtain or acquire title to real property or any right or easement therein by prescription or adverse possession. This section shall not be construed to prevent the adjudication hereafter of title in such city in cases where lapse of time and adverse possession have already ripened into title but no adjudication thereof has yet been had.

History: *1943 c 582 s 1,2*

465.02 LANDS DEEDED TO STATE; MODIFICATION OF CONDITIONS.

Any city in this state, that has heretofore deeded, or may hereafter deed, to the state of Minnesota any lands to be used by the state for a public purpose in such deed stated, conditioned, among other things, that such lands shall be so used by the state for a period of time, which time exceeds 20 years, and in case such use is not made thereof for the stated time, then such land shall revert to such city, may at any time after 15 years from the date of the deed by a majority vote of the city council at any regular meeting thereof, or at a properly called special meeting of such council, pass a resolution or enact an ordinance modifying the terms and conditions above specified and permit the noncompliance by the state with such terms and conditions as originally made, either wholly or in part, and such resolution so adopted shall operate as a release of the state from such terms and conditions to the extent provided in such resolution and the action by the state in conformity with such resolution shall not in any way cause a reversion to such city of the lands or any part thereof or interest therein.

History: *(1930) 1911 c 182 s 1; 1973 c 123 art 5 s 7*

465.025 GIFTS OF LAND TO STATE.

Any municipal corporation in the state of Minnesota, owning lands in fee simple and not restricted by the grant, which are no longer necessary for municipal purposes, may convey said lands to the state of Minnesota without consideration when duly authorized by the governing body of said municipal corporation and the governor is authorized to accept such conveyances in behalf of the state.

History: *1947 c 8 s 1*

465.026 [Repealed, 1987 c 291 s 244]

465.03 GIFTS TO MUNICIPALITIES.

Any city, county, school district or town may accept a grant or devise of real or personal property and maintain such property for the benefit of its citizens in accordance with the terms prescribed by the donor. Nothing herein shall authorize such acceptance or use for religious or sectarian purposes. Every such acceptance shall be by resolution of the governing body adopted by a two–thirds majority of its members, expressing such terms in full.

History: *(1830) RL s 767; 1913 c 319 s 1; 1949 c 294 s 1; 1973 c 123 art 5 s 7*

465.035 PUBLIC CORPORATION, CONVEYANCE OR LEASE OF LAND.

Any county, town, city or other public corporation may lease or convey its lands for a nominal consideration, without consideration or for such consideration as may be agreed upon to the state or to any governmental subdivision, to the United States or to any agency of the federal government, another public corporation or to the Minnesota state armory building commission for public use when authorized by its governing body.

History: *1947 c 34 s 1; 1951 c 73 s 1; 1955 c 142 s 1; 1957 c 152 s 1; 1973 c 123 art 5 s 7*

465.036 GIFTS, HOSPITALS.

Counties or cities, however organized, may accept gifts to aid in building, acquiring, equipping or maintaining public hospitals whether such hospital is maintained by a county or a city, or by any combination thereof.

History: *1949 c 152 s 1; 1973 c 123 art 5 s 7*

465.037 GIFTS TO HOSPITALS.

A home rule charter or statutory city or town may make grants for the use of a private, nonprofit, or public hospital that serves the city or town when authorized by the council in the case of a city and the town board in the case of a town upon the affirmative vote of the town electors at the annual or a special town meeting.

History: *1989 c 92 s 2*

465.039 GIFTS TO ORGANIZATIONS DISTRIBUTING FOOD.

The governing body of a county, or of a home rule charter or statutory city, may appropriate each year out of its general fund, 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; 1998 c 368 s 1*

465.04 ACCEPTANCE OF GIFTS.

Cities of the second, third, or fourth class, having at any time a market value of not more than $41,000,000, exclusive of money and credits, as officially equalized by the commissioner of revenue, either under home rule charter or under the laws of this state, in addition to all other powers possessed by them, hereby are authorized and empowered to receive and accept gifts and donations for the use and benefit of such cities and the inhabitants thereof upon terms and conditions to be approved by the governing bodies of such cities; and such cities are authorized to comply with and perform such terms and conditions, which may include payment to the donor or donors of interest on the value of the gift at not exceeding five percent per annum payable annually or semiannually, during the remainder of the natural life or lives of such donor or donors.

History: *(1663) 1923 c 395 s 1; 1973 c 582 s 3; 1988 c 719 art 5 s 84; 1989 c 329 art 13 s 20; 1990 c 480 art 9 s 19*

465.05 TAX LEVY TO PAY INTEREST.

When any such city shall so accept such gift or donation the governing body thereof shall have the right to enter such a written contract for the payment of such interest so determined upon, it shall be the duty of the city council annually, at the time other taxes are levied, to levy a tax sufficient to pay such obligation so incurred.

History: *(1664) 1923 c 395 s 2*

465.06 [Repealed, 1976 c 44 s 70]

465.07 [Repealed, 1976 c 44 s 70]

465.08 [Repealed, 1976 c 44 s 70]

465.09 [Repealed, 1963 c 798 s 16]

465.091 [Repealed, 1963 c 798 s 16]

465.10 [Repealed, 1963 c 798 s 16]

465.11 [Repealed, 1963 c 798 s 16]

465.12 [Repealed, 1963 c 798 s 16]

465.121 [Repealed, 1963 c 798 s 16]

465.13 JUDGMENT AGAINST MUNICIPALITY; PAYMENT.

No execution shall issue on a judgment for the recovery of money against a city, except as hereinafter provided. Upon delivery of a certified copy of the judgment, the treasurer of such municipality shall pay it out of any moneys in or coming in not otherwise appropriated, unless collection thereof be stayed on appeal, always retaining a sufficient sum to pay necessary current expenses; and, if the treasurer fails so to do, the treasurer and bonding agents shall be liable for the amount. In case there be no such treasurer, then, upon delivery of such certified copy and an affidavit of the judgment creditor, the judgment creditor's agent or attorney, showing the amount due, and that the judgment has not been stayed on appeal, the county treasurer shall pay such judgment out of the funds of the municipality in or coming in, taking receipt therefor.

History: *(1834) RL s 769; 1973 c 123 art 5 s 7; 1986 c 444*

465.14 TAX LEVY; EXECUTION.

When a judgment against a city is unpaid at the time of the annual tax levy, unless the proper officers thereof have otherwise provided sufficient funds to pay the same before the time for collection of such tax levy, they shall levy a tax to pay such judgment and certify the same and the purpose thereof to the county auditor. If the judgment be not paid within 20 days after the time fixed by law for the county treasurer to pay over to the treasurer of the municipality the moneys on hand belonging to it on account of such annual tax levy, execution may issue on such judgment, but only the property of such municipality shall be liable thereon. If there be no officers of the municipality to levy such tax, the judgment creditor may apply to the county auditor, who, upon being satisfied that the judgment has not been paid or stayed, shall levy and extend the tax.

History: *(1836) RL s 770; 1973 c 123 art 5 s 7; 1986 c 444*

465.15 CITIES MAY ACQUIRE EXEMPT PROPERTY.

Each city of the first class now or hereafter having a population of 50,000 inhabitants or more, including each such city operating under a charter adopted pursuant to the provisions of the Constitution of the state of Minnesota, article IV, section 36, article XI, section 4, or article XII, section 5, is hereby authorized and empowered to acquire by purchase, condemnation, or otherwise any right or interest in land either platted or unplatted within the limits of the city, which interest in land consists of a right or privilege in the owner of the land to offset certain amounts against special assessments levied by the governing body, the city council, or the board of park commissioners of such city for park or parkway purposes, or both.

History: *(1541–1) 1931 c 385 s 1; 1997 c 7 art 4 s 6*

465.16 RIGHT OF EMINENT DOMAIN.

In the event that the chief governing body, city council or board of park commissioners of such city shall exercise such right by condemnation such body may do so under any laws provided for the condemnation of real property or eminent domain or under any provision of the charter of such city granting to such body the right of condemnation or eminent domain; or, it being for the best interests of such city, such chief governing board, city council, or board of park commissioners shall have the power and authority to acquire the rights by purchase, taking into consideration the present worth of such right to exemption and the probability or improbability that such exemptions would ever be used as an offset to future assessments for benefits.

History: *(1541–2) 1931 c 385 s 2*

465.17 MAY ISSUE BONDS.

In order to carry out the purpose of sections 465.15 to 465.17 each such city is hereby authorized to issue bonds or certificates of indebtedness to secure funds for the amount necessary to acquire the right and the city council or other chief governing body shall levy annu-

ally a tax on all the taxable property of the city sufficient to meet the interest and the principal about to mature on the bond.

History: *(1541–3) 1931 c 385 s 3*

465.18 [Repealed, 1990 c 391 art 10 s 4]

465.19 CHANGE OF CHANNEL WITHIN AND AT COST OF CITY; CITY'S OWNERSHIP.

When any portion of the channel of any river navigable for commercial purposes within the limits of any city in this state is changed by or under the authority of the United States government or any other authority for the improvement of navigation and the cost of such change or any portion thereof is borne by the city within which change is made the old bed of the river or portion thereof abandoned by reason of any such change, shall belong to and become the property in fee simple of the city in which the same is situate without further act or ceremony. The filing and recording in the office of the county recorder of the county in which such city is located, of a copy of this bill together with a plat or map certified by the secretary of defense of the United States or the United States government engineer in charge of the changes of the channel hereinbefore referred to, showing the respective locations of the water line of the old or original bed of the river and such changed location, shall constitute sufficient evidence of title of such city to the old river bed and lands hereinbefore referred to. Upon the request of any such city the governor and the commissioner of finance shall also execute and deliver to such city a deed of conveyance transferring all of the right, title, and interest of the state of Minnesota in and to such old river bed and lands within the limits of such city, and the lands so reclaimed or acquired may be held, used, or disposed of by such city as the common council shall determine to be for the best interests of such city.

History: *(1350) 1911 c 291 s 2; 1973 c 492 s 14; 1976 c 2 s 135; 1976 c 181 s 2*

465.20 APPLICATION.

Sections 465.19 and 465.20 shall apply to all cities including those now or hereafter governed by a charter adopted pursuant to the Constitution of the state of Minnesota, article IV, section 36, article XI, section 4, or article XII, section 5.

History: *(1351) 1911 c 291 s 3; 1990 c 391 art 8 s 48; 1997 c 7 art 4 s 7*

465.21 [Repealed, 1965 c 670 s 14]

465.22 [Repealed, 1965 c 670 s 14]

465.23 [Repealed, 1965 c 670 s 14]

465.24 [Repealed, 1965 c 670 s 14]

465.25 [Repealed, 1965 c 670 s 14]

465.26 DIVERSION OF UNNAVIGABLE STREAMS; RAISING WATERS OF LAKES.

Any first class city may, if in the judgment of its city council, the public health or welfare of its citizens will be promoted thereby, divert any unnavigable stream, flowing wholly or partly within the corporate limits, from its natural bed to an artificial channel or to another watercourse. The diversion may take place at any feasible or desirable point within or without the corporate limits, and the new channel may be created within or without or partly within and partly without the corporate limits. For the purpose of controlling and regulating the flow of such stream in its new channel, the city may, by the erecting of dams or other suitable means, raise the waters of any lake or lakes from which the stream may flow, or through which the new channel may flow, and control and regulate the discharge from such lake or lakes, and straighten, enlarge, and make such changes and improvements in the channels as may be necessary for such purposes. Such new channels may, where necessary, cross any highway or railway; in which case suitable bridges shall be provided.

History: *(1509) 1905 c 18 s 1; 1976 c 44 s 65*

465.27 ORDINANCE; SURVEY AND MAP.

The city council shall by ordinance first adopt and file with the city clerk a survey and map showing the point at which it is proposed to divert the stream, the route of the new channel, the sites of dams and other controlling works, the lands proposed to be taken for right of way and for flowage purposes, the levels to which it is proposed to raise and between which it is proposed to maintain the waters of any lake, a profile of the route and of the water surface, the cross–section of the proposed new channel, the enlargement, if any, of any existing channel, the bridges, tunnels, culverts to be built, and in general, the entire extent and scope of the improvement as nearly as may be.

History: *(1510) 1905 c 18 s 2*

465.28 LANDS; HOW ACQUIRED.

The city council may acquire in the name of the city by grant, dedication, purchase, or devise the lands and the rights necessary to carry out such improvements.

History: *(1511) 1905 c 18 s 3*

465.29 CONDEMNATION; SPECIAL ASSESSMENTS.

The power of eminent domain and the power to levy special assessments for benefits are hereby delegated to such cities for the purposes of sections 465.26 to 465.48, to acquire the lands and rights needed or any of them, to be exercised as follows.

History: *(1512) 1905 c 18 s 4*

465.30 ORDINANCE; APPRAISERS.

The city council shall by ordinance determine and declare as nearly as may be the cost of such improvements, exclusive of damages to property, and appoint five appraisers, who shall be disinterested freeholders and qualified voters of the county, and none of whom shall be residents of the town or ward or wards of the city in which the property so designated is situated, to view the premises and appraise the damages which may be occasioned by the taking of private property or otherwise in making such improvement, and to assess special benefits resulting therefrom. These appraisers shall be notified as soon as practicable by the city clerk to attend, at a time fixed by the clerk, for the purpose of qualifying and entering upon their duties. When a vacancy may occur among these appraisers by neglect or refusal of any of them to act or otherwise, such vacancy shall be filled by the city council.

History: *(1513) 1905 c 18 s 5; 1986 c 444*

465.31 OATH.

The appraisers shall be sworn to discharge their duty as appraisers in the matter with impartiality and fidelity; and to make due return of their acts to the city council.

History: *(1514) 1905 c 18 s 6*

465.32 NOTICE OF MEETING.

The appraisers shall give notice of their meeting in a manner appropriate to inform the public, which notice shall name the stream to be diverted, the point of diversion, the general course of the new channel and the height to which it is proposed to raise or maintain any lake, the location of proposed bridges, culverts, or tunnels, the estimated cost of construction, and contain a description of the lands designated by the city council to be taken for right of way and for flowage purposes, and give notice that a plan of the improvement has been filed in the office of the city clerk, and that the appraisers will meet at a place and time designated in the notice, and thence proceed to view the premises and appraise the damages for property to be taken, or which may be damaged by the diversion of water or otherwise by such improvement, and to assess benefits in the manner hereinafter specified. If any portion of such stream or of the lands to be taken is outside of the county containing such city, then the notice shall also be given in the outside county.

History: *(1515) 1905 c 18 s 7; 1984 c 543 s 61*

465.33 MAILING NOTICES.

A copy of all subsequent notices relating to the proceeding which are required to be published, shall be mailed by the city clerk immediately after the first publication thereof to such persons as shall have appeared in the proceedings and requested in writing that such notices be mailed to them.

History: *(1516) 1905 c 18 s 8*

465.34 MEETING OF APPRAISERS; DAMAGES AND BENEFITS.

At the time and place mentioned in the notice, the appraisers shall meet and thence proceed to view the premises, and hear any evidence or proof offered by the parties interested and may adjourn from time to time for the purpose aforesaid. When their view and hearing shall be concluded they shall determine the amount of damages, if any, suffered by each piece or parcel of land affected by the improvement. They shall determine the amount of special benefits, if any, occurring by reason of diversion of water, drainage, or otherwise, to each piece or parcel of land wherever situate and whether contiguous to the improvement or not. If the damages exceed the benefits to any particular piece, the excess shall be awarded as damages. If the benefits exceed the damages to any particular piece, the difference shall be assessed as benefits, but the total assessment for benefits shall not be greater than the aggregate net award of damages added to the estimated cost of construction; and in every case the benefits assessed upon the several parcels shall be in proportion to the actual benefits received, and no assessment upon any particular piece shall exceed the amount of actual special benefits after deducting the damages, if any.

History: *(1517) 1905 c 18 s 9*

465.35 BUILDINGS.

If there be any buildings standing, in whole or in part, upon any parcel of the land to be taken, the appraisers shall, in such case, determine the amount of damages which should be paid to the owners thereof, in case such building, or so much as may be necessary, should be taken, and shall appraise and determine the amount of damages to be paid such owners in case they shall elect to remove such buildings.

History: *(1518) 1905 c 18 s 10*

465.36 DIFFERENT OWNERS OR INTERESTS.

If the land and buildings belong to different persons or if the land be subject to lease, mortgage, or judgment, or if there be any estate less than an estate in fee, the injury or damage done to such person, or interests, respectively, may be awarded to them separately by the appraisers. Neither such award of the appraisers, nor the confirmation thereof by the city council, shall be deemed to require the payment of such damages to the person or persons named in such award, in case it shall transpire that such persons are not entitled to receive the same.

History: *(1519) 1905 c 18 s 11*

465.37 REPORT.

The appraisers having ascertained and appraised the damages and assessed the benefits, as aforesaid, shall make and file with the city clerk a written report of their action in the premises, embracing a schedule and appraisement of the damages awarded and benefits assessed, with descriptions of the lands, and the names of the owners, if known to them, and a statement of the costs of the proceeding.

History: *(1520) 1905 c 18 s 12*

465.38 NOTICE OF APPRAISEMENT; CONFIRMATION OR ANNULMENT.

Upon such report being filed, the city clerk shall give notice that such appraisement has been returned and that the same will be considered by the city council at a meeting thereof to be named in the notice, which notice shall contain the schedule of damages awarded and benefits assessed and be given in a manner appropriate to inform the public. Any person in-

terested in any building standing in whole or in part upon any land required to be taken by such improvement shall, on or before the time specified for the meeting in such notice, notify the city council in writing of the person's election to remove such building, if the person so elect. The city council, upon the day fixed for the consideration of such report, or at any subsequent meeting to which the same may stand over or be referred, shall have power in their discretion to confirm, revise, or annul the appraisement and assessment, giving due consideration to any objections interposed by parties interested in the manner hereinafter specified; provided that the city council shall not have the power to reduce the amount of any award nor increase any assessment. In case the appraisement and assessment is annulled, the city council may thereupon appoint new appraisers, who shall proceed in like manner as in case of the first appraisement, and upon the coming in of their report, the city council shall proceed in a like manner and with the same powers as in the case of the first appraisement.

History: *(1521) 1905 c 18 s 13; 1984 c 543 s 62; 1986 c 444*

465.39 AWARD; APPEAL.

If not annulled or set aside, such award shall be final and a charge upon the city, for the payment of which the credit of the city shall be pledged. Such assessments shall be and remain a lien and charge upon the respective lands until paid. The award shall be paid to the persons entitled thereto or deposited and set apart in the treasury of the city for the use of the persons entitled thereto within six months after the confirmation of the appraisement and award. In case any appeal shall be taken from the order confirming the appraisement and assessment, as hereinafter provided, the time for payment of the awards shall be extended until and including 60 days after the final determination of all appeals taken in the proceedings, and in case of any change in the awards or assessment upon appeal, the city council may, by resolution duly adopted, at any time within 60 days after the determination of all appeals, set aside the entire proceeding. Any awards so set aside shall not be paid, and the proceedings as to the tracts for which the awards are so set aside shall be deemed abandoned. Any awards not so set aside shall be a charge upon the city, for the payment of which the credit of the city shall be pledged. All awards shall bear interest at the rate of six percent per annum from the time of the filing of the original appraisers' report, and all subsequent awards and awards upon appeals shall be made as of the day and date of filing of such original reports.

History: *(1522) 1905 c 18 s 14*

465.40 VESTURE OF TITLE.

Upon the conclusion of the proceedings and the payment of the awards, the several tracts of land shall be deemed to be taken and appropriated for the purposes of sections 465.26 to 465.48, and the title thereto shall vest in the city. In case the city council shall in any case be unable to determine to whom the damages should in any particular case be paid, or in case of adverse claim in relation thereto, or in case of the legal disability of any person interested, the city council shall, and in any and every case the city council may in its discretion deposit the amount of damages with the district court of the county in which such city is situate, for the use of the parties entitled thereto, and the court shall, upon the application of any person interested, and upon such notice as the court shall prescribe, determine who is entitled to the award, and shall order the same paid accordingly. Any such deposit shall have the same effect as the payment to the proper persons.

History: *(1523) 1905 c 18 s 15*

465.41 REMOVAL OF BUILDINGS.

In case any owner of buildings, as aforesaid, shall have elected to remove the buildings they shall be removed within 30 days from the confirmation of the report or within such further time as the city council may allow for the purpose and shall be entitled to the payment of the amount of damages awarded in such case in case of removal. When such person shall not have elected to remove such buildings, or shall have neglected (after having elected) to remove the same within the time above specified, such buildings, or so much thereof as may be necessary, upon paying or depositing the damages awarded for such taking in manner aforesaid, may be taken and appropriated, sold, or disposed of as the city council shall elect.

History: *(1524) 1905 c 18 s 16; 1986 c 444*

465.42 APPEAL; OBJECTIONS; NOTICE; RECORD.

Any person whose property is proposed to be taken or interfered with or assessed under any provisions of sections 465.26 to 465.48, or who claims to be damaged by the improvement, and who deems that there is any irregularity in the proceedings of the city council, or action of the appraisers, by reason of which the award of the appraisers ought not to be confirmed, or who is dissatisfied with the amount of damages awarded for the taking of, or interference with the person's property, or the assessment thereon, may, at any time before the time specified for the consideration of the award and assessment by the city council, file with the city clerk in writing objections to such confirmation, setting forth therein specifically the particular irregularities complained of, and the particular objection to the award or assessment, and containing a description of the property, affected by such proceedings and the person's interest therein, and if, notwithstanding such objections, the city council shall confirm the award or assessment, such persons so objecting shall have the right to appeal from such order of confirmation of the city council to the district court of the county in which the city is situate within 20 days after such order. Such appeal shall be made by serving a written notice of appeal upon the city clerk, which shall specify the property of the appellant affected by such award or improvement, and refer to the objection filed, as aforesaid, thereupon the city clerk, at the expense of the appellant, shall make out and transmit to the court administrator of the district court a copy of the record of the entire proceedings and of the award of the appraisers as confirmed by the city council, and of the order of the city council confirming the same, and of the objections filed by the appellant, as aforesaid, and of the notice of appeal, all certified by the city clerk to be true copies, within ten days after the taking of such appeal. If more than one appeal be taken in the same proceeding, it shall not be necessary that the city clerk in appeals subsequent to the first shall send up anything but a certified copy of the appellant's objections. There shall be no pleading on any appeal, but the court shall determine in the first instance whether there was in the proceedings any such irregularity or omission of duty prejudicial to the appellant and specified in the written objection that as to that appellant the award or assessment of the appraisers ought not to stand, and whether the appraisers had jurisdiction to take action in the premises.

History: *(1525) 1905 c 18 s 17; 1986 c 444; 1Sp1986 c 3 art 1 s 82*

465.43 HEARING; APPRAISERS; AWARD; APPEAL.

The case may be brought on for hearing on eight days' notice, at any general or special term of the court, and the judgment of the court shall be to confirm or annul the proceedings, only so far as the proceedings affect the property of the appellant proposed to be taken or damaged or assessed, and described in the written objection. In case the amount of damages or benefits assessed is complained of by the appellant, the court shall, if the proceedings be confirmed in other respects, appoint three disinterested freeholders, residents of the county, appraisers, to reappraise the damages, and reassess benefits as to the property of appellant. The parties to the appeal shall be heard by the court upon the appointment of the appraisers. The court shall fix the time and place of meeting of the appraisers. They shall be sworn to the faithful discharge of their duties as appraisers, and shall proceed to view the premises and to hear the parties interested, with their allegations and proofs pertinent to the question of the amount of damages or benefits, and proceed in all other material respects as are provided in sections 465.26 to 465.48 for the government of appraisers appointed by the city council. They shall, after the hearing and view of the premises, report to the court their award of damages and assessments of benefits in respect to the property of the appellant. The appellant shall, within five days of notice of filing the award, file a written election to remove the buildings if the appellant so elect. The election shall not affect the appellant's right to a review. The award shall be final unless set aside by the court. The motion to set aside shall be made within 15 days. If the report is set aside, the court may, in its discretion, recommit it to the same appraisers, or appoint new appraisers, as it deems best. The court shall allow to the appraisers a reasonable compensation for their services, and make such awards of costs on the appeal, including the compensation of appraisers, as it deems just in the premises, and enforce them by execution. If the court is of the opinion that the appeal was frivolous or vexatious, it may

adjudge double costs against the appellant. An appeal may be taken to the court of appeals from any final order of the district court in the proceedings.

History: *(1526) 1905 c 18 s 18; 1983 c 247 s 159; 1986 c 444*

465.44 TIME OF PAYMENT.

In case of any appeal the time for making payment of awards shall be extended as to all tracts embraced in the proceeding to 60 days after final determination of all appeals.

History: *(1527) 1905 c 18 s 19*

465.45 NOTICE OF PENDENCY; PERSONS AFFECTED.

The notice prescribed in section 465.32 shall be sufficient to charge all persons whose rights or interests may be affected by the diversion of such waters, but whose lands are not otherwise taken, with notice of the pendency of the proceeding, and all such persons may present to the appraisers evidence of the damages which they will suffer, and the appraisers shall determine and award such damages as they may find, particularly specifying in their award the location and the nature of such damages, and all persons failing to present their claims for damages arising from the diversion of waters, shall be concluded by the proceeding hereunder, whether any award of damages is made to them or not, and shall be barred from claiming damages afterwards in any other form of action or proceeding.

History: *(1528) 1905 c 18 s 20*

465.46 AWARD AND ASSESSMENT, HOW CERTIFIED; ASSESSMENT, HOW ENFORCED.

Upon the final determination of all appeals in such proceeding, the city clerk shall transmit to the auditor of the county or counties in which the respective lands lie a copy duly certified by the clerk of the awards and assessment of the appraisers as confirmed by the city council; and the court administrator of the district court shall, in like manner, certify the award and assessment as finally made upon all appeals; and the county auditors shall include such assessments of benefits against each tract of land assessed, with and as a part of the taxes upon such respective tracts of land in the next annual list of taxes for general, state, county and other purposes, and the same proceedings shall be had for the collection and enforcement thereof, as for such general taxes, including like penalties in case of nonpayment, and including also proceedings for the collection and enforcement of delinquent taxes. When any of such assessments are collected, they shall be credited to the city conducting such proceedings, and paid over and accounted for in like manner as other taxes.

History: *(1529) 1905 c 18 s 21; 1986 c 444; 1Sp1986 c 3 art 1 s 82*

465.47 DUTY OF CITY.

It shall be the duty of such city to proceed with all reasonable dispatch to complete such improvements, unless the proceedings are set aside by the city council as provided in sections 465.26 to 465.46.

History: *(1530) 1905 c 18 s 22*

465.48 POWERS AND DUTIES OF COUNCIL; PENALTIES.

The city council shall have power and it shall be its duty after the construction of such works to maintain the same and to prevent injury or obstruction to the channel or works and contamination of the waters. For such purposes the city council may enact suitable ordinances and prescribe penalties for their violation, not exceeding a fine of $100 for each offense or confinement in the city workhouse not exceeding 90 days. The district court having chambers in the county in which the city is located shall have jurisdiction of the offenses.

History: *(1531) 1905 c 18 s 23; 1998 c 254 art 2 s 48*

465.49 PARKING LAKE SHORES; DONATIONS; CONTRACTS FOR WATER AND ICE.

All cities of the fourth class and the city councils of the same, in addition to all powers now possessed by such cities, shall have the power to dredge lakes wholly or partly within the

corporate limits of such cities, to park the shores thereof, maintain a water level in such lakes, and expend money therefor.

Such cities are given the right to accept donations from any person, firm, or corporation to aid in defraying such expenses and such cities and the city councils thereof shall have the power to make contracts with any person, firm, or corporation for the taking of water and ice from such lake upon such terms and conditions as may be agreed upon between such city council and the person, firm, or corporation acquiring the right to the use of the water and ice.

History: *(1746) 1913 c 331 s 1*

465.50 OBSERVANCE OF MEMORIAL DAY.

The council of each and every city in the state, in addition to all other powers now possessed by it, is hereby empowered and authorized to set apart, appropriate, and expend, or cause to be expended, in such manner as it may deem best, from any funds in the city treasury available therefor, an amount not to exceed the sum of $300 annually for each 75,000 of population of such city for the purpose of aiding in the appropriate observance of Memorial Day on the last Monday in May of each year and in the annual commemoration of the noble and valiant deeds of the nation's soldier dead.

History: *(1318) 1909 c 365 s 1; 1923 c 375; 1971 c 25 s 81*

465.51 [Repealed, 1976 c 44 s 70]

465.52 [Repealed, 1976 c 44 s 70]

465.53 [Repealed, 1987 c 291 s 244]

465.54 MAY PAY EXPENSES FROM GENERAL FUND OF STATUTORY CITY.

The council of any statutory city may pay from the general fund of the municipality, for the purposes of section 469.186, expenses incurred by the governing officers in the performance of their official duties. Trips for lobbying purposes or trips to meetings or conventions not in connection with specific municipal projects pending before the officer making the trip are not authorized for payment under this section.

History: *(1192–4, 1192–5) 1933 c 60 s 4,5; 1973 c 123 art 5 s 7; 1977 c 50 s 2; 1987 c 291 s 223; 1994 c 505 art 4 s 4*

465.55 [Repealed, 1987 c 291 s 244]

465.56 [Repealed, 1987 c 291 s 244]

465.57 [Repealed, 1976 c 44 s 70]

465.58 MEMBERS OF THE LEAGUE OF CITIES.

Subdivision 1. **Dues, annual meeting expense.** Any city of this state, whether organized under the general laws or a special or home rule charter, or any town having the powers of a statutory city under section 368.01, may appropriate through its council or town board, out of its general fund, money to pay the annual dues in the League of Minnesota Cities and the actual and necessary expenses of such delegates as such council or town board may designate to attend meetings of the league.

Subd. 2. [Repealed, 1957 c 935 s 27]

History: *(1933–4) 1923 c 211 s 1; 1951 c 259 s 1; 1961 c 49 s 1; 1973 c 123 art 5 s 7; 1977 c 347 s 54*

465.59 [Repealed, 1976 c 44 s 76]

465.60 [Renumbered 413.135]

465.61 [Repealed, 1976 c 44 s 70]

465.62 [Repealed, 1963 c 798 s 16]

465.63 [Repealed, 1976 c 44 s 70]

465.64 [Repealed, 1976 c 44 s 70]

465.65 [Repealed, 1976 c 44 s 70]

465.66 [Repealed, 1976 c 44 s 70]

465.67 [Repealed, 1976 c 44 s 70]

465.68 [Repealed, 1976 c 44 s 70]

465.681 [Repealed, 1996 c 310 s 1]

465.69 TRAINING OF SCHOOL SAFETY PATROL MEMBERS.

Any statutory city of this state may provide for the training of members of the school safety patrol at any authorized school patrol camp located in this state and may pay the expense necessarily incurred in providing such training, out of any funds available for said purpose.

History: *1955 c 316 s 1; 1973 c 123 art 4 s 11*

465.70 TELEVISION SIGNAL DISTRIBUTION SYSTEMS; HOME RULE CHARTER THIRD AND FOURTH CLASS CITIES AND STATUTORY CITIES.

Any statutory city or any home rule charter city of the third or fourth class more than 50 miles from the boundaries of a city of the first class, or any two or more of such cities acting under an agreement accepted by the governing body of each such participating municipality, may own, construct, acquire, purchase, maintain and operate within its corporate limits a television signal distribution system for the purpose of receiving, transmitting, and distributing television impulses and television energy, including audio signals and transient visual images, to the inhabitants of the city. This system shall be considered a public utility. The city may erect, construct, operate, repair, and maintain in, upon, along, over, across, through and under its streets, alleys, highways and public grounds, poles, cross–arms, cables, wires, guy–wires, stubs, anchors, towers, antennas, pipes, connections, and other appliances, fixtures, and equipment necessary, expedient, or useful in connection therewith. It may prescribe reasonable rates and charges for the use of these facilities and the services furnished. It may prescribe, make and maintain rules for the operation thereof and do all things necessary and incidental to accomplish such purpose. Subject to and in accordance with chapter 475, the city may issue obligations in a maximum amount of $100,000 for acquisition and betterment of the system.

History: *1957 c 100 s 1; 1959 c 257 s 1; 1973 c 123 art 5 s 7; 1976 c 44 s 66*

465.71 INSTALLMENT AND LEASE PURCHASES; CITIES; COUNTIES; SCHOOL DISTRICTS.

A home rule charter city, statutory city, county, town, or school district may purchase personal property under an installment contract, or lease real or personal property with an option to purchase under a lease–purchase agreement, by which contract or agreement title is retained by the seller or vendor or assigned to a third party as security for the purchase price, including interest, if any, but such purchases are subject to statutory and charter provisions applicable to the purchase of real or personal property. For purposes of the bid requirements contained in section 471.345, "the amount of the contract" shall include the total of all lease payments for the entire term of the lease under a lease–purchase agreement. The obligation created by a lease–purchase agreement for personal property or a lease–purchase agreement for real property if the amount of the contract for purchase of the real property is less than $1,000,000 shall not be included in the calculation of net debt for purposes of section 475.53, and shall not constitute debt under any other statutory provision. No election shall be required in connection with the execution of a lease–purchase agreement authorized by this section. The city, county, town, or school district must have the right to terminate a lease–purchase agreement at the end of any fiscal year during its term.

History: *1965 c 266 s 1; 1976 c 44 s 67; 1979 c 3 s 1; 1982 c 523 art 15 s 4; 1988 c 639 s 6; 1989 c 329 art 5 s 16; 1990 c 562 art 5 s 12; 1997 c 231 art 2 s 33*

465.715 POLITICAL SUBDIVISIONS; LEASE PURCHASE AGREEMENTS; CORPORATIONS.

Subdivision 1. **Statutory authorization required.** A county, home rule charter city, statutory city, town, school district, or other political subdivision may not create a corporation, whether for profit or not for profit, unless explicitly authorized to do so by law.

Subd. 1a. **Application.** Except as provided by subdivision 2, subdivision 1 only applies to a corporation for which a certificate of incorporation is issued by the secretary of state on or after June 1, 1997. A corporation that had been issued a certificate of incorporation before June 1, 1997, may continue to operate as if it had been created in compliance with subdivision 1. This subdivision expires July 1, 1999.

Subd. 2. **Pre–December 1, 1996, lease purchase agreements.** The validity of any lease purchase agreement entered into prior to December 1, 1996, and subsequent refinancings are not affected by either the amount of consideration paid by a lessor for an interest in real property or, in the case of lessors organized by or on behalf of the city, county, town, or school district, any defect in or lack of authority to organize such entity. A nonprofit corporation organized by or on behalf of a city, county, town, or school district, for the purpose of a lease purchase agreement, may continue in existence until the end of any lease agreement in effect on December 1, 1996, but thereafter is dissolved. During its existence, the nonprofit corporation shall conduct only business that is necessary and directly related to the lease agreement. The nonprofit corporation is a public corporation for purposes of section 465.035 and is subject to all laws as if it were a part of the city, county, town, or school district.

Subd. 3. **Information.** (a) By June 30, 1998, the office of the state auditor shall request from all counties, home rule charter cities, statutory cities, urban towns, and school districts information regarding all corporations, including limited liability companies or limited liability partnerships, whether for profit or not for profit, created by the political subdivision. The information requested must include information regarding the corporation's incorporation date, organizational structure, purpose, a brief summary of the extent to which the corporation receives or expends public funds, potential public liabilities for conduct of the corporation, public oversight, and public laws applicable to the corporation. This information must be received by the state auditor on or before October 15, 1998.

(b) The office of the state auditor shall compile and summarize the information received and report to the senate local and metropolitan government committee and the house of representatives local government and metropolitan affairs committee or their successor committees by January 30, 1999. The report may include recommendations for any changes in laws governing the operation of existing and future corporate entities created by such political subdivisions, and changes in laws needed to clarify the legal status of these corporate entities. Any corporate entity created by a political subdivision before September 1, 1998, for which a report is not received by the state auditor is not authorized to receive public funds or contract with public entities after July 1, 1999.

History: *1997 c 219 s 7; 1997 c 231 art 16 s 19; 1998 c 360 s 1; 1998 c 389 art 16 s 20,21*

465.72 SEVERANCE PAY.

Subdivision 1. **Payment; limits.** Except as may otherwise be provided in Laws 1959, chapter 690, as amended, a county, city, township, school district or other governmental subdivision may pay severance pay to its employees and adopt rules for the payment of severance pay to an employee who leaves employment. Severance pay does not include compensation for accumulated sick leave or other payments in the form of periodic contributions by an employer toward premiums for group insurance policies for a former employee. The severance pay must be excluded from retirement deductions and from any calculations in retirement benefits. Severance pay must be paid in a manner mutually agreeable to the employee and employer 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, that balance due must be paid to a named beneficiary or, lacking one, to the deceased's estate. Severance pay provided for an employee leaving employment may not exceed an amount equivalent to one year of pay.

Subd. 2. [Repealed, 1988 c 605 s 14]

History: *1973 c 123 art 5 s 7; 1973 c 298 s 1; 1979 c 334 art 6 s 24; 1980 c 614 s 151; 1Sp1981 c 4 art 2 s 37; 1986 c 455 s 91; 1988 c 605 s 10*

465.721 FUNDING.

No county, city, township, or other governmental subdivision shall implement a plan for payment of severance pay pursuant to section 465.72 until a plan providing for full funding has been developed and approved by the governing body. This section does not apply to school districts.

History: *1980 c 600 s 9; 1984 c 463 art 7 s 21*

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*

465.73 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: *1976 c 140 s 1; 1977 c 210 s 1; 1978 c 476 s 1; 1Sp1989 c 1 art 5 s 34; 1991 c 120 s 1; 1995 c 256 s 6*

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.

Subd. 1a. **Cities with over 50,000 inhabitants.** A city with over 50,000 inhabitants that is not a city of the first class is authorized to acquire, construct, improve, and operate a district heating system under the same terms and conditions as a city of the first class except as provided herein. Acquisition or construction and financing of a municipal district heating system is not subject to the election requirements of sections 452.11 and 452.12, however, a resolution for the acquisition or construction and financing must be approved by a two-thirds vote of the governing body of the city.

Subd. 2. **Cities of the second, third, and fourth class.** A home rule or statutory city of the second, third, or fourth class may, pursuant to sections 412.331 to 412.391, or chapter 455 or its charter acquire, construct, own, and operate a municipal district heating system.

Subd. 3. **Extension of service outside city.** A municipal district heating system, operating pursuant to this section, may sell energy to customers located outside of the municipality.

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.

Subd. 5. **District heating facilities.** Notwithstanding any other law, general or special, or the provisions of any home rule charter city to the contrary, the governing body of a municipality may by ordinance grant a district heating franchise for a term not to exceed 31 years and by resolution or ordinance secure any obligations issued by the municipality for a district heating system with a mortgage or indenture of trust coextensive with the term of the obligations.

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.

Subd. 7. **Port authorities, ownership and operation of district heating systems.** A port authority organized pursuant to sections 469.048 to 469.068 or a special law may acquire, own, construct, and operate a district heating system or systems to provide heating and cooling services and other energy services within the statutory or home rule charter city within which it is created. The authority may, in conjunction with a district heating system, acquire, own, construct, and operate an energy management and control system to monitor and control users' energy demand within the city as a related ancillary function of the district heating system. The authority may, in conjunction with a district heating system, acquire, own, construct, and operate ancillary services related to an energy management and control system including, but not limited to, sensing and monitoring services for supervision of fire and life safety systems and building security systems within the city.

This section shall be effective for a port authority only after adoption of an ordinance or resolution by the board of the port authority and by the governing body of the city stating their intention to exercise the authority allowed by this section.

A port authority may, with approval of the city, lease part or all of the district heating system or contract with respect to part or all of the district heating system, with any person, corporation, association, or public utility company for the purpose of constructing, improving, operating, or maintaining the district heating system.

Subd. 8. **Management of a district heating system by a port authority.** A statutory or home rule charter city within which a port authority has been created may delegate to the port

authority some or all powers and responsibilities for the management and operation of a district heating system.

Subd. 9. **Operation by a county.** A statutory or home rule charter city may contract with a county to operate a district heating system for the provision of district heating services within some or all of the city.

History: *1981 c 334 s 6; 1981 c 356 s 248; 1982 c 561 s 12; 1984 c 449 s 1–4; 1987 c 291 s 224; 1987 c 312 art 1 s 10 subd 1; 1993 c 327 s 19–21*

465.75 REGULATION OF VEHICLE TOWERS LIMITED.

Subdivision 1. **Definitions.** For the purposes of this section, the following terms have the meanings given them:

(a) "Vehicle tower" means a person engaged in the business of towing or recovering vehicles by means of a crane, hoist, tow bar, tow line, or dolly for the purpose of moving or transporting wrecked, damaged, disabled, replacement, or abandoned vehicles; and

(b) "Municipality" means a statutory or home rule charter city or a town.

Subd. 2. **Request by owner.** No municipality may prohibit the operation within its boundaries of a vehicle tower who is not licensed by that municipality and who is responding to a service request from a person who is the owner or operator or the agent of the owner or operator of the motor vehicle for which vehicle towing service is requested.

Subd. 3. **Private property.** No vehicle tower may remove a motor vehicle by towing, carrying, hauling or pushing from private property except at the request of a person who is the owner or operator or the agent of the owner or operator of the vehicle, or the owner or agent of the owner of the private property.

History: *1983 c 115 s 1*

465.76 LEGAL COUNSEL; REIMBURSEMENT.

If reimbursement is requested by the officer or employee, the governing body of a home rule charter or statutory city or county may, after consultation with its legal counsel, reimburse a city or county officer or employee for any costs and reasonable attorney's fees incurred by the person to defend charges of a criminal nature brought against the person that arose out of the reasonable and lawful performance of duties for the city or county, provided if less than a quorum of the governing body is disinterested, that such reimbursement shall be approved by a judge of the district court.

History: *1984 c 650 s 1*

465.77 REGULATION OF DRILLING TO PROTECT MINED UNDERGROUND SPACE DEVELOPMENT.

A home rule charter city or statutory city may regulate drilling for the purposes and in the manner provided in section 469.141.

History: *1985 c 194 s 25; 1987 c 291 s 225*

465.78 PARTICIPATION IN ECONOMIC DEVELOPMENT SECONDARY MARKETS.

(a) A municipality may sell at private or public sale, at the price or prices determined by the municipality, any note, mortgage, lease, sublease, lease purchase, or other instrument or obligation evidencing or securing a loan made for the purpose of economic development, job creation, redevelopment, or community revitalization to a business, for–profit or nonprofit organization, or an individual.

(b) Sales under this section must be made through arrangements whereby the ultimate sale of the instrument is to be made as part of a pool of instruments on behalf of one or more other municipalities, port authorities, housing and redevelopment authorities, or rural development finance authorities (other than a port authority or housing and redevelopment authority located wholly or partly within the municipality). The restrictions of the previous sentence do not apply if the sale is a public sale or if the proposed sale is submitted to and ap-

proved by the commissioner of commerce. The commissioner shall review the proposed sale to determine if the agreed upon price adequately compensates the municipality, given the maturity, risk, and yield of the instrument. If a proposed sale is submitted to the commissioner of commerce and the sale is not disapproved in writing by the commissioner within 30 days, the sale is deemed approved. The restrictions contained in this paragraph apply to sales made under sections 469.059, subdivision 17; 469.101, subdivision 22; and 469.146, subdivision 3.

(c) This section does not apply to an obligation to make payments to the municipality, if the underlying obligation arose out of a transaction in which the proceeds of the loan were financed by revenues derived from tax increments from a tax increment financing district that includes property owned by the borrower. For the purpose of this section, a "municipality" is any home rule charter city, statutory city, county, or town.

History: *1989 c 317 s 1*

465.79 ESTABLISHMENT OF BOUNDARY COMMISSION.

Subdivision 1. **City council, town or county board.** By resolution, the city council of a statutory or home rule charter city, town board, or county board may create a boundary commission. Members of the commission shall be residents of the county or counties in which the city or town is located who are familiar with real property.

Subd. 2. **Duties of boundary commission.** Upon initiation by resolution of the governing body or upon petition of an adjoining or affected property owner, the boundary commission shall review property descriptions of the disputed areas in the respective jurisdiction. Upon mailed notice to all known parties in interest, the commission shall attempt to establish agreements between adjoining landowners as to the location of common boundaries as delineated by a certified land survey. If agreement cannot be reached, the commission shall make a recommendation as to the location of the common boundaries within the disputed area. The commission shall prepare a plan designating all agreed and recommended boundary lines and report to the city council, town board, or county board.

Subd. 3. **Hearing.** Upon receipt of the plan and a report from the commission, the city council, town board, or county board shall hold a public hearing. The council, town board, or county board shall give mailed notice to all known parties in interest and published notice 20 days prior to the hearing. The council, town board, or county board shall hear all interested parties and may make adjustments to the proposed plan that it deems just and necessary.

Subd. 4. **Judicial review.** Following the public hearing, the council or board may petition the district court for judicial approval of the proposed plan. If any affected parcel is land registered under chapter 508, the petition must be referred to the examiner of titles for a report. The council or board shall provide sufficient information to identify all parties in interest and shall give notice to parties in interest as the court may order. The court shall determine the location of any contested, disputed, or unagreed boundary and shall determine adverse claims to each parcel as provided in chapter 559. After hearing and determining all disputes, the court shall issue its judgment in the form of a plat complying with chapter 505 and an order designating the owners and encumbrancers of each lot. Real property taxes need not be paid or current as a condition of filing the plat, notwithstanding the requirements of section 505.04.

Subd. 5. **Special assessments.** The city or board may assess part or all of the cost incurred by it against the benefited properties on a per parcel basis as provided in chapter 429.

History: *1990 c 386 s 1; 1992 c 493 s 9,10; 1997 c 78 s 1*

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 465.801 to 465.88, the terms defined in this section have the meanings given them.

History: *1993 c 375 art 15 s 1; 1994 c 587 art 8 s 1; 1995 c 264 art 8 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 465.801, 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.

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

History: *1993 c 375 art 15 s 2; 1994 c 587 art 8 s 2; 1995 c 264 art 8 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, in concept, the proposed waiver or exemption at a meeting required to be public under section 471.705. A local government unit or two or more units acting jointly may apply for a waiver or exemption on behalf of a nonprofit organization providing services to clients whose costs are paid by the unit or units. A waiver or exemption granted to a nonprofit organization under this section applies to services provided to all the organization's clients.

(b) A school district that is granted a variance from rules of the state board of education under section 122A.164, 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 122A.164. 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; and

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

A copy of the application must be provided by the requesting local government unit to the exclusive representative certified under section 179A.12 to represent employees who provide the service or program affected by the requested waiver or exemption.

Subd. 3. **Review process.** (a) Upon receipt of an application from a local government unit, the board shall review the application. The board shall dismiss an application if it finds

that the application 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.

(b) The board shall determine whether a law from which an exemption for enforcement is sought is a procedural law, specifying how a local government unit is to achieve an outcome, rather than a substantive law prescribing the outcome or otherwise establishing policy. In making its determination, the board shall consider whether the law specifies such requirements as:

(1) who must deliver a service;

(2) where the service must be delivered;

(3) to whom and in what form reports regarding the service must be made; and

(4) how long or how often the service must be made available to a given recipient.

(c) If the commissioner of finance, the commissioner of administration, or the state auditor has jurisdiction over a rule or law affected by an application, the chief administrative law judge, as soon as practicable after receipt of the application, shall designate a third administrative law judge to serve as a member of the board in place of that official while the board is deciding whether to grant the waiver or exemption.

(d) 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.

(e) Within 15 days after receipt of 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. 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. An agency's failure to do so is considered agreement to the waiver or exemption. The board shall decide whether to grant a waiver or exemption at its next regularly scheduled meeting following its receipt of an agency's response or the end of the 60-day response period. If consideration of an application is not concluded at that 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 or exemption request up to the time of its vote on the application.

(f) If the exclusive representative of the affected 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. 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.** (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 adjournment 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.

Subd. 5a. **Exemptions granted.** Notwithstanding subdivision 5, exemptions from enforcement of law granted by the board during calendar year 1995 remain in effect until June 30, 1999. An exemption granted by the board for Itasca county during calendar year 1996 allowing the county to implement a demonstration project to determine the feasibility of using a managed care model for financing chemical dependency treatment services remains in effect until June 30, 1999. This subdivision expires June 30, 1999.

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; 1994 c 587 art 8 s 3–7; 1995 c 264 art 8 s 3; 1996 c 394 s 5; 1997 c 42 s 1; 1998 c 397 art 11 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: *1993 c 375 art 15 s 4; 1994 c 587 art 8 s 8; 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 scoring system in section 465.802. The amount of a grant under this section may not exceed $50,000.

History: *1993 c 375 art 15 s 5; 1994 c 587 art 8 s 9; 1995 c 264 art 8 s 5*

SERVICE SHARING AND COMBINATION INCENTIVES

465.80 [Repealed, 1994 c 587 art 8 s 13]

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: *1994 c 587 art 8 s 10; 1995 c 264 art 8 s 6*

465.802 SCORING SYSTEM.

In deciding whether to award a grant under section 465.798, 465.799, or 465.801, the board shall use the following scoring system:

(1) Up to 15 points shall be awarded to reflect the extent to which the application demonstrates creative thinking, careful planning, cooperation, involvement of the clients of the affected service, and commitment to assume risk.

(2) Up to 20 points shall be awarded to reflect the extent to which the proposed project is likely to improve the quality of the service and to have benefits for other local governments.

(3) Up to 15 points shall be awarded to reflect the extent to which the application's budget provides sufficient detail, maximizes the use of state funds, documents the need for financial assistance, commits to local financial support, and limits expenditures to essential activities.

(4) Up to 20 points shall be awarded to reflect the extent to which the application reflects the statutory goal of the grant program.

(5) Up to 15 points shall be awarded to reflect the merit of the proposed project and the extent to which it warrants the state's financial participation.

(6) Up to five points shall be awarded to reflect the cost/benefit ratio projected for the proposed project.

(7) Up to five points shall be awarded to reflect the number of government units participating in the proposal.

(8) Up to five points shall be awarded to reflect the minimum length of time the application commits to implementation.

History: *1994 c 587 art 8 s 11*

465.803 REPAYMENT OF GRANTS.

Subdivision 1. **Repayment procedures.** Without regard to whether a grant recipient offered to repay the grant in its original application, as part of a grant awarded under section 465.798, 465.799, or 465.801, the board may require the grant recipient to repay all or part of the grant if the board determines the project funded by the grant resulted in an actual savings for the participating local units of government. The grant agreement must specify how the savings are to be determined and the period of time over which the savings will be used to calculate a repayment requirement. The repayment of grant money under this section may not exceed an amount equal to the total savings achieved through the implementation of the project multiplied by the total amount of the grant divided by the total budget for the project and may not exceed the total amount of the original grant.

Subd. 2. **Bonus points.** In addition to the points awarded to competitive grant applications under section 465.802, the board shall award additional points to any applicant that projects a potential cost savings through the implementation of its project and offers to repay the grant money under the formula in subdivision 1.

Subd. 3. **Use of repayment revenue.** All grant money repaid to the board under this section is appropriated to the board for additional grants authorized by sections 465.798, 465.799, and 465.801.

History: *1997 c 202 art 2 s 49*

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:

(1) to merge into a single unit of government over the succeeding two–year period; or

(2) to agree to apportion the entire area of at least one local government unit between or among two or more local government units contiguous to the unit to be apportioned, resulting in the elimination of at least one local government unit over the succeeding two years.

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.

Subd. 3. **Combination requirements.** Counties may combine with one or more other counties. Cities may combine with one or more other cities or with one or more towns. Towns may combine with one or more other towns or with one or more cities. Units that combine must be contiguous. A county, through the adoption of a resolution by all county boards that are affected by the combination, may apportion its territory between or among two or more counties contiguous to the county that is to be apportioned. A city, through the adoption of a resolution by all city councils that are affected by the combination, may apportion its territory between or among two or more cities contiguous to the city that is to be apportioned. A township, through the adoption of a resolution by all town boards or city councils that are affected by the combination, may apportion its territory between or among two or more townships or cities contiguous to the township that is to be apportioned.

History: *1991 c 291 art 14 s 2; 1993 c 375 art 15 s 10; 1995 c 264 art 8 s 7; 1997 c 231 art 2 s 34,35*

465.82 COOPERATION AND COMBINATION PLAN.

Subdivision 1. **Adoption and state agency review.** Each governing body that proposes to take part in a combination under sections 465.81 to 465.87 must by resolution adopt 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 proposing to take part in the combination, the governing body shall publish at least a summary of the adopted plans, each significant modification and resolution of items, and, if appropriate, the results of each board and council review and comment. If a territory of a unit is to be apportioned between or among two or more units contiguous to the unit that is to be apportioned, the plan must specify the area that will become a part of each remaining unit.

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 or, when the entire territory of a unit will be apportioned between or among two or more units contiguous to the unit that is to be apportioned, the steps to be taken by the governing bodies of the remaining units to provide for representation of the residents of the apportioned unit;

(4) changes in services provided, facilities used, and administrative operations and staffing required 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 exclusive representatives, 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 units;

(7) one– and two–year impact analyses, 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, including an impact analysis, prepared by the department of revenue, of any property tax revenue implications associated with tax increment financing districts and fiscal disparities under chapter 276A or 473F 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 is 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 government 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.

Subd. 3. **Interim governing body.** The plan for cooperation and combination adopted in accordance with subdivision 1 may establish an interim governing body to act on behalf of the new local government unit before the effective date of the combination. If established, the interim governing body must consist of at least a majority of the elected officials from each local government unit taking part in the combination. If the plan establishes an interim governing body, the governing body of each unit taking part in the combination shall appoint its representatives to serve on the interim governing body. An interim governing body may not take any official action on behalf of the new local government unit before approval of the combination through the referendum required by section 465.84. After approval of the combination through the referendum, and before the effective date of the combination, an interim governing body may exercise all statutory authority of the governing body of the new local government unit, including the authority to enter into contracts and adopt policies and local ordinances.

History: *1991 c 291 art 14 s 3; 1993 c 375 art 15 s 11; 1995 c 264 art 8 s 8; 1996 c 471 art 11 s 13; 1997 c 231 art 2 s 36–38*

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: *1991 c 291 art 14 s 4; 1993 c 375 art 15 s 12*

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: *1991 c 291 art 14 s 5; 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: *1991 c 291 art 14 s 6; 1995 c 264 art 8 s 10*

465.86 BONDED DEBT AT THE TIME OF COMBINATION.

Debt service for bonds outstanding at the time of the combination may be levied by the combined governing body consistent with the plan adopted according to section 465.82, and any subsequent modifications, subject to section 475.61. The primary obligation to pay the bonded indebtedness outstanding on the effective date of combination remains with the local government unit that issued the bonds, but a combined unit may make debt service payments on behalf of a preexisting unit.

History: *1991 c 291 art 14 s 7*

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 or orders combining the units of government is forwarded to the board. If the municipal board issues an order, or two or more orders within 30 days, for the annexation of the area of an entire township by two or more cities contiguous to the township, the cities subject to the board's order are eligible to receive pro rata shares, on the basis of the population of the area of the township that was annexed by each contiguous city, of the total amount of cooperation and combination aid all participating units of government would be eligible to receive under subdivision 2. 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 subdivision 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

If two or more units are eligible for a single award under this subdivision, the award must be divided among the units in pro rata shares based on each unit's population. 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: *1991 c 291 art 14 s 8; 1993 c 375 art 15 s 13,14; 1995 c 264 art 8 s 11; 1997 c 231 art 2 s 39,40; 1998 c 264 s 1*

465.88 PLANNING AID FOR CONSOLIDATION STUDIES.

Two or more local units of government with a combined population of 30,000 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 local units of government must be subject to a municipal board proceeding 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 is to be used. The governing bodies of the local units of government shall 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. Two or more local government units with a combined population of at least 2,500 but not greater than 30,000, based on the most recent decennial census, must agree to provide at least $1 for the study of a possible consolidation or combination for each dollar of aid granted by the board under this section.

History: *1995 c 264 art 8 s 12; 1997 c 231 art 2 s 41*