473.667 GENERAL OBLIGATION REVENUE FINANCING.

Subdivision 1. **Scope.** The metropolitan airports commission shall have all the powers and duties set forth in this section, in addition to the powers granted and the duties imposed and notwithstanding any limitations of such powers set forth in any other law or city charter provision. These powers and duties are likewise granted to and imposed upon any successor public corporation, agency, or subdivision of the state in which the commission's property, rights, powers, obligations, and duties, or any of them, may in the future be vested by law.

Subd. 2. **Borrowing authorization.** No additional bonds shall be issued under the provisions of section 473.665, over and above the amount outstanding April 1, 1974. Except for refunding bonds and certificates of indebtedness, the principal amount of bonds that may be issued under this section, over and above the amount of bonds of the commission outstanding January 15, 1988, is limited to $150,000,000 until and unless this limitation is increased by law. The pledge of revenues of the commission to its debt service fund in lieu of the taxes otherwise required by section 473.665 to be assessed and extended shall be and remain a first charge on all current revenues of the commission to the extent required annually to cancel such taxes.

Subd. 3. **General obligation revenue bonds.** Subject to the provisions of subdivision 2 the commission may issue bonds for the acquisition and betterment of airports and air navigation facilities, and for the refunding of such bonds and of certificates of indebtedness issued under subdivision 10, in the same manner and with the same powers and duties as a municipality under the provisions of chapter 475 except as otherwise provided in this section. The bonds shall be designated as general obligation revenue bonds, and shall be payable primarily from and secured under resolutions of the commission by an irrevocable pledge and appropriation of the revenues to be derived from rates, fees, charges, and rentals to be imposed, maintained, and collected for all use, service, and availability of airport and air navigation facilities owned and to be owned or operated by the commission. They shall be further secured by the pledge of the full faith and credit of the commission, which shall be obligated to levy upon all taxable property within the metropolitan area a tax at such times and in such amounts, if any, as may be required to provide funds sufficient to pay all of the bonds and interest thereon when due and to maintain a reserve securing such payments in the manner and to the extent provided in this section. This tax, if ever required to be levied, shall not be subject to any limitation of rate or amount. The security afforded by this section extends equally and ratably to all general obligation revenue bonds of the commission, except that nothing herein shall prevent the commission from pledging current revenues from a particular facility or group of facilities first to the payment and security of bonds issued to finance such facilities.

Subd. 4. **Debt service fund.** The commission shall maintain permanently on its official books and records an account or accounts referred to herein collectively as the debt service fund, separate from all other funds and accounts, to record all receipts and disbursements of money for principal and interest payments on its bonds, and on certificates of indebtedness issued pursuant to subdivision 10. At or before the due date of each principal and interest payment on said bonds and certificates the treasurer shall remit from the debt service fund to the payment agent for the issue an amount sufficient for such payment, without further order from the commission. At or before the time of delivery of any series of bonds the commission shall withdraw from the proceeds thereof, or from revenues then on hand and available for the purpose, and shall deposit in the debt service fund such amount, if any, as may be required to establish in the fund a balance of cash and investments at least equal to the total amount of principal and interest then due and to become due on bonds of the commission to the end of the following year, but not exceeding the total amount of principal and interest then due and to become due on bonds of the commission to the end of the second following year. The commission shall also deposit in the fund on or before October 10 in each year, from revenues received in excess of budgeted current expenses of operation and maintenance of its property and of carrying on its business and activities, or from other available moneys, amounts at least sufficient to permit cancellation of the taxes referred to in subdivision 2 and to pay principal and interest due on the following year on general obligation revenue bonds of the commission; and, to the extent determined by the commission, sufficient to produce a balance of cash and investments therein not exceeding the total amount of principal and interest due and to become due on all bonds of the commission to the end of the second following year. If such revenues or other available moneys are insufficient in any year to produce the required minimum balance or any larger balance established by the commission, then unless provision is made for restoring the deficiency in accordance with the provisions of subdivision 8, the commission shall levy and appropriate to the debt service fund, and certify to the county auditors of all counties in the metropolitan area, a tax in accordance with subdivision 3 in an amount at least five percent in excess of the deficiency. For the purpose of determining the balance in the debt service fund at any time, investments held therein shall be valued at the principal amount payable at maturity if they mature in the following year, or otherwise at market value, plus the amount of interest receivable thereon to the end of the following year.

Subd. 5. **Rates, fees, charges, and rentals.** The commission shall be obligated to the holders of its bonds, and to the owners of all property subject to taxation for the payment thereof, to establish, revise from time to time, and collect rates, fees, charges, and rentals for all airport and air navigation facilities and service used by and made available to any person, firm, association, or corporation according to schedules such as to produce revenues at all times sufficient for the requirements of the debt service fund as provided in subdivision 4, and sufficient also to pay when due all expenses of operation and maintenance of the commission's property and of carrying on its business and activities in accordance with law. The payment of such rates, charges, fees, and rentals by any party for the use of any facility or service for any period, other than use permitted to the public generally, shall be secured by a lease or other agreement requiring such party to pay each year an amount sufficient to provide for the payment of a share of the principal and interest due during this period on all bonds of the commission, proportionate to the amount of such bonds issued to provide the facility or service and to the amount of use thereof assured to such party in comparison with others. If a tax is ever required to be levied for a debt service fund deficiency under the provisions of subdivision 4, the commission shall immediately take all action permitted by law and under its leases and other agreements to enforce the payment of rates, fees, charges, and rentals then due, and to raise the amounts thereof payable in the future to the extent required for conformity with subdivision 4 and for repayment of the deficiency with interest at six percent per annum.

Subd. 6. **Reimbursement of debt service fund deficiencies.** If a debt service fund deficiency tax is ever certified in accordance with subdivision 4, each county auditor shall extend it on the tax roll of the auditor's county in that proportion which the net tax capacity of taxable property within the county then bears to the net tax capacity of all taxable property within the metropolitan area, and shall certify to the commission the amount so extended. Thereafter the commission shall be obligated to repay to the treasurer of each county the amount extended upon its tax roll with interest at six percent per annum from the dates of payment of the deficiency tax to the commission to the date or dates of repayment. The commission shall certify to each county auditor the principal amount to be so paid to the county before October 10 in each subsequent year, and the county auditor shall reduce by this amount the taxes levied by the county which are to be extended upon its tax rolls then in preparation.

Subd. 7. **Conditions.** Bonds of the commission shall not be conditioned upon an election, but no bonds shall be issued at any time, except for refunding in the cases described in subdivision 8, unless the required balance in the debt service fund is first established in accordance with subdivision 4, and the commission determines on one of the bases described in this subdivision that the revenues to be received by it each year during the term of the proposed issue will be at least sufficient to pay when due all of the commission's bonds and interest thereon, including the new issue but excluding any bonds refunded thereby, and to establish the balance required in the debt service fund by October 10. Before the bonds are delivered to the purchaser, the commission shall secure either:

(a) A report of audit of the commission's financial records for the fiscal year most recently ended or, if this is not yet available, a report for the preceding year, prepared by a nationally recognized firm of certified public accountants, showing that the net revenues received that year, computed as the gross receipts less any refunds of rates, fees, charges, and rentals for airport and air navigation facilities and service, less the aggregate amount of current expenses, paid or accrued, of operation and maintenance of property and carrying on the commission's business and activities, equaled or exceeded the maximum amount of then outstanding bonds of the commission and interest thereon to become due in any future fiscal year; or

(b) A lease or other agreement or agreements for the operation or use by one or more airline corporations of the facility for which the bonds are proposed to be issued, requiring such corporation or corporations to pay all costs of operation and maintenance thereof and to pay additional rentals or charges at the times and in not less than the amounts required to pay all of the bonds and interest thereon when due and to establish the annual balance required in the debt service fund to secure such payments, together with a report of audit showing net revenues fulfilling the condition in clause (a) as to all other bonds then outstanding or then to be issued; or

(c) A written report prepared by a nationally recognized consultant on airport management and financing, projecting gross receipts, current expenses, and net revenues at least sufficient during each year of the term of the proposed bonds to pay all principal and interest due on all bonds and to establish and maintain the required annual debt service fund balance, and stating the estimates of air traffic, rate increases, inflation, and other factors on which the projection is based.

Subd. 8. **Refunding deficiencies.** If in any year the revenues available for transfer to the debt service fund are or will in the judgment of the commission be insufficient to produce the balance required thereon on October 10 under the provisions of subdivision 4, or to make any interest or principal payment due on certificates of indebtedness issued under the provisions of subdivision 10, the commission may, with the approval of the council, issue refunding bonds and appropriate the proceeds to the debt service fund in the amount needed to restore the deficiency, provided that the refunding bonds shall not mature earlier than the date or dates when the commission estimates that the revenues from enforced or increased rates, fees, charges, and rentals will be sufficient to pay them and to meet all other requirements of the debt service fund as stated in subdivision 4.

Subd. 8a. **Refunding bonds.** The commission may issue general obligation revenue refunding bonds to refund bonds issued pursuant to this section in accordance with section 475.67, subdivisions 1 to 11.

Subd. 9. **Additional taxes.** Nothing herein shall prevent the commission from levying a tax not to exceed 0.00121 percent of estimated market value on taxable property within its taxing jurisdiction, in addition to any levies found necessary for the debt service fund authorized by section 473.671. Nothing herein shall prevent the levy and appropriation for purposes of the commission of any other tax on property or on any income, transaction, or privilege, when and if authorized by law. All collections of any taxes so levied shall be included in the revenues appropriated for the purposes referred to in this section, unless otherwise provided in the law authorizing the levies; but no covenant as to the continuance or as to the rate and amount of any such levy shall be made with the holders of the commission's bonds unless specifically authorized by law.

Subd. 10. **Emergency borrowing.** If in any budget year revenue receipts should from any unforeseen cause become insufficient to pay budgeted current expenses, or if a public emergency should necessitate expenditures in excess of revenues anticipated to meet the current budget, the commission may make an emergency appropriation sufficient to meet the deficiency and may authorize the issuance and sale of general obligation certificates of indebtedness in this amount, maturing not later than October 10 in the following budget year, at public or private sale and upon such other terms and conditions as the commission may determine. The principal of and interest on such certificates of indebtedness, unless paid from other revenues, shall be payable from the debt service fund.

Subd. 11. **Additional bonds.** (a) The commission may issue general obligation revenue bonds under this section for the purposes of:

(1) acquiring by purchase real and personal properties located within the metropolitan area that are related to airline operations to be leased to airline corporations, or to other corporations affiliated by common ownership with airline corporations, for use in connection with their airline operations, including real and personal properties for use as flight training facilities; and

(2) financing or refinancing real and personal properties owned by the commission which may include discharging a leasehold interest on the properties to be leased to airline corporations and used in connection with the operations of the airline corporations at airports under the commission's jurisdiction.

Prior to the issuance of the general obligation revenue bonds, the commission shall enter into a lease with the airline corporations, or with other corporations affiliated by common ownership with airline corporations, for the use of the acquired real and personal properties referenced in clause (1), and shall enter into a revenue agreement with the airline corporation for the use of the properties financed or refinanced referenced in clause (2). The commission shall seek to obtain the best available terms and security for the lease and agreement. The terms and security must be reasonably determined by the commission to be adequate and of the kind and degree which would be required by an investment banking or other financial institution. All such properties are airport facilities for purposes of complying with the provisions of subdivisions 3 and 5.

(b) In addition to the covenants and agreements otherwise required or negotiated by the commission, the leases and revenue agreements for the properties must contain covenants and agreements by the airline corporation, and if the user is not the airline corporation, also by the airline corporation, satisfactory to the commission providing for:

(1) the payment of rents in amounts and at times adequate to pay the principal and interest as due on the general obligation revenue bonds issued to acquire, finance, or refinance the properties and to pay the commission's costs and expenses of issuing the bonds and acquiring and owning the properties, and otherwise satisfying the requirements of section 469.155, subdivision 5;

(2) the adequate security for payment of rents so that the net unencumbered value of the leased property described in paragraph (a), clause (1), and other collateral pledged to the commission from time to time by the airline corporation, as independently appraised at the time of issuance and periodically to the satisfaction of the commission during the term of the general obligation revenue bonds, is a percentage of the principal amount of the outstanding general obligation revenue bonds under this subdivision as determined by the commission; provided that the percentage determined by the commission must not be less than 125 percent;

(3) the retention and location of operations and facilities, including headquarters, of the airline corporation in the metropolitan area and the state for the term of the lease and aircraft noise abatement; and

(4) early repayment, or the establishment of a defeasance account to provide for timely repayment, of the general obligation revenue bonds upon the occurrence of events and upon terms and conditions as are

satisfactory to the commission, together with financial requirements and covenants satisfactory to the commission.

(c) The purchase price of the acquired properties described in paragraph (a), clause (1), must be in an amount equivalent to a percentage of its then fair market value as determined by the commission; provided that the percentage shall not exceed 85 percent. The portion of the general obligation revenue bonds attributable to the financing or refinancing of the property described in paragraph (a), clause (2), must be in an amount equivalent to a percentage of its then fair market value as determined by the commission; provided that the percentage shall not exceed 85 percent. The principal amount of the general obligation revenue bonds issued under this subdivision is limited to $270,000,000 in excess of the amount authorized by subdivision 2; provided that the sum of the original principal amounts of the general obligation revenue bonds issued under this subdivision, and the revenue bonds issued under section 473.6671, shall not exceed $390,000,000. Before the commission may issue the general obligation revenue bonds described in this subdivision, the commission shall have received, in form and substance satisfactory to the commission, reports described in section 473.6671, subdivision 3, relating to the general obligation revenue bonds.

(d) In addition to other purposes authorized by law, the proceeds of the general obligation revenue bonds may be used to fund a debt service reserve account or other reserve account.

Subd. 12. **Bonds for heavy maintenance facility.** (a) The commission may issue general obligation revenue bonds under this section for the purpose of acquisition and betterment of a heavy maintenance facility for aircraft to be located at Minneapolis-St. Paul International Airport. The heavy maintenance facility must be owned by the commission and leased to and operated by airline corporations, for use by airline corporations in connection with their airline operations. The principal amount of the general obligation revenue bonds issued under this subdivision is limited to $230,000,000 in excess of the amount authorized by subdivision 2.

(b) To reduce the risk that commission money, including a property tax levy, will be needed to pay debt service on the general obligation revenue bonds, the commission must require that the financing arrangements include a coverage test satisfactory to the commission, so that the sum of the value of the assets and other security pledged to the payment of the general obligation revenue bonds or the rent due under any lease of the facility and taken into account by the commission is no less than 125 percent of the difference between the outstanding general obligation revenue bonds and any cash collateral held in a debt service reserve fund and pledged to the payment of principal and interest for the general obligation revenue bonds and no other bonds. Assets and other security that may be taken into account include (1) the net unencumbered value of the facility and any collateral or third-party guaranty, including a letter of credit, pledged or otherwise furnished by a user of the facility or by a benefited airline company as security for the payment of rent, (2) the general obligation revenue bond proceeds, including earnings thereon, and (3) prepayments of rent, after making such adjustments the commission determines to be appropriate to take into account any outstanding bonds secured by a lien on the facility or rent that is prior to the lien thereon that is securing the general obligation revenue bonds, but excluding any cash collateral deducted from the outstanding general obligation revenue bonds in applying the coverage test. The commission may adopt the method of valuing the assets and other security it determines to be appropriate, including valuation of the facility as its original cost less depreciation. Cash collateral means cash or securities issued or unconditionally guaranteed as to payment of principal and interest by the United States of America and maturing or callable at the option of the holder within two years.

(c) In addition to other purposes authorized by law, the proceeds of the general obligation revenue bonds may be used to fund a debt service reserve account or other reserve account.

(d) For purposes of this subdivision, the commission may exercise any powers vested in a redevelopment agency under sections 469.152 to 469.165. Any deed granted or received by the commission and any mortgage granted by the commission in connection with the issuance of the general obligation revenue bonds is exempt from deed tax and mortgage registry tax imposed under chapter 287. The lease must contain covenants and agreements by the airline corporation and any successor in interest providing for: (1) the retention and location of existing employees, operations, and facilities, including headquarters, of the airline corporation in the state until the principal and interest on the last series of bonds are paid; and (2) aircraft noise abatement.

History: *1975 c 13 s 120; 1978 c 531 s 1-3; 1980 c 450 s 1; 1981 c 27 s 1; 1986 c 444; 1988 c 664 s 3; 1988 c 719 art 5 s 84; 1989 c 277 art 4 s 75; 1989 c 329 art 15 s 20; 1991 c 350 art 2 s 1,3,5; 2013 c 143 art 14 s 91*