

**Revised: November 2002**

**2002 Legislation Relating  
to Local and Metropolitan  
Government**

This report describes legislation enacted in the 2002 regular session relating to local and metropolitan government. It also briefly describes vetoed legislation. This report does *not* cover all legislation that affects local governments. With a few exceptions, it does not cover civil or criminal law, employment or pensions, health and human services, transportation, economic development, or environmental issues.

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## Introduction

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All the citations in this report are to Laws 2002, Regular Session, unless otherwise indicated. For information on laws enacted in 2002 that may affect local government that are not covered in this report, see the acts or act summaries for:

Budget Reconciliation, phase 1 .....	Chapter 220
Transportation Housekeeping .....	Chapter 364
Agriculture .....	Chapter 373
Budget Reconciliation, phase 2 .....	Chapter 374
Health and Human Services .....	Chapter 375
Taxes .....	Chapter 377
Jobs and Economic Development .....	Chapter 380
Public Pensions .....	Chapter 392
Capital Investment .....	Chapter 393

Act summaries are available on the House Research web site  
([ww3.house.leg.state.mn.us/hrd/actsum.asp](http://ww3.house.leg.state.mn.us/hrd/actsum.asp)).

## Local Government Generally

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### Land Use, Planning, Zoning

#### **Municipal Boundary Adjustment Statute**

The 2000 Legislature directed the Revisor of Statutes to prepare legislation for the 2001 Legislature that would change the statute that governs municipal boundary adjustments to reflect the abolition of the Minnesota Municipal Board (abolished in 1999). The legislation was prepared, but not considered until 2002, when it was enacted. In addition, Minnesota Planning was given additional time, until May 1, 2004, in which to adopt amended rules governing boundary adjustment procedures.

*Ch. 223, amending various provisions of Minn. Stat. ch. 414, repealing Minn. Stat. §§ 414.01, subds. 2 and 6a, 414.011, subd. 8, and 414.11, effective August 1, 2002*

#### **Annexation; Election of New Municipal Officers**

Under prior law, an election of new municipal officers after an entire town is annexed was only authorized if the annexation began with both the city and the town each filing a resolution for the annexation.

As was made clear in the recent Forest Lake annexation, there are other ways in which an entire town may be annexed, warranting the election of new municipal officers. Therefore, the 2002 Legislature enacted a law providing that without regard to how an annexation is begun, whenever an entire township is annexed by a city, the annexation order must require the election of new municipal officers. In addition, the director of Minnesota Planning may order an election in other cases if it is determined to be equitable.

*Ch. 235, amending Minn. Stat. § 414.031, subd. 4a, § 414.09, subd. 3, effective March 15, 2002, and applies to annexations ordered on or after that date*

#### **Orderly Annexation**

An orderly annexation agreement is now expressly stated to be a binding agreement on the parties to it and enforceable in court. Land included in the area under the orderly annexation agreement cannot be annexed by any procedure other than as provided in the agreement if the agreement states that it provides the exclusive procedure by which property may be annexed.

*Ch. 236, amending Minn. Stat. § 414.0325, by adding subd. 6, effective March 15, 2002, and applies to annexations ordered on or after that date*

Under [Minnesota Statutes, section 414.12](#), the director of

**Use Coordinating Board  
Pilot Project**

initiate a pilot project, to be coordinated by Minnesota Planning, to promote cooperative efforts among county, state, federal, and local governments and private citizens regarding land use management issues. The pilot project is to document when land use regulations and policies are incompatible with local government land use authority, when regulations and policies interfere with private property rights, and identify and promote a means of resolving differences. The Northern Counties Land Use Coordinating Board or its participating counties must reimburse Minnesota Planning for coordination services. The board must report to the legislature by January 15, 2004, on the status of the pilot project, which ends June 30, 2004.

According to its web site, the Northern Counties Land Use Coordinating Board is a group of ten counties in northern Minnesota: Beltrami, Clearwater, Cook, Itasca, Koochiching, Lake, Lake of the Woods, Marshall, Pennington, and St. Louis. The first meeting of the group was held on September 22, 1993; and the members' formal agreement was completed on May 4, 1995.

*Ch. 373, § 33, effective May 18, 2002*

**Nonconforming Uses;  
Lower St. Croix National  
Scenic Riverway**

Notwithstanding the statute governing nonconforming uses and when they must become conforming uses, the rules governing land use and development in the Lower Saint Croix National Scenic Riverway may allow substandard structures to be continued and improved. Under [Minnesota Rules, part 6105.0354](#), subpart 30, "substandard structure" means any structure established before the effective date of a Saint Croix Riverway ordinance that is permitted within a particular zoning district but does not meet the structure setbacks or other dimensional standards of the ordinance.

*Ch. 366, §§ 5 and 6, amending Minn. Stat. §§ 394.36, by adding subd. 1a, and 462.357 by adding subd. 1f, effective August 1, 2002*

**Affordable Housing,  
Development Criteria, and  
Housing Fiscal Impact  
Notes**

A municipality and a developer may agree to certain conditions designed to keep all or a portion of the units affordable to persons of low and moderate income. When approving a subdivision, planned unit development, site plan, or similar action for a proposed development that includes units for households of low and moderate incomes, the municipality and the developer may establish:

- ▶ sales prices or rents for the affordable units;
- ▶ maximum income limits for initial and subsequent purchasers or renters of the affordable units;
- ▶ means for maintaining long-term affordability, including equity sharing, or similar activities; and
- ▶ land trust agreements for the affordable units.

The first three options would apply for no more than 20 years from initial occupancy, except where public financing or subsidies require longer terms.

A municipality may prepare a housing fiscal impact note when there is a potential for a housing fiscal impact due to local zoning changes after August 1, 2002. "Housing fiscal impact" is defined as increased or decreased costs incurred by a housing development as a result of local zoning changes. The note may estimate the costs, specify long-range implications, describe alternatives, and discuss the rationale for the proposed action.

*Ch. 315, amending Minn. Stat. § 462.358, by adding subd. 11, adding Minn. Stat. § 462.3612, effective August 1, 2002*

### **Board of Government Innovation and Cooperation Abolished**

Funding for the Board of Government Innovation and Cooperation, under Minnesota Statutes, chapter 465, was cancelled, effective March 1, 2002, and most of the statutes relating to the board repealed, effective July 1, 2002. The statutes authorizing cooperation and combination plans were not repealed. The cooperation and combination process has had limited use, but has been an alternative to annexation and consolidation under Minnesota Statutes, chapter 414. Most recently, the cities of Rockville and Pleasant Lake and the town of Rockville used the chapter 465 cooperation and combination process to merge (as of June 2002).

*Ch. 220, art. 10, § 40, repealing Minn. Stat. §§ 465.795, 465.796, 465.797, 465.7971, 465.798, 465.799, 465.801, 465.802, 465.803, 465.83, 465.87, 465.88, effective July 1, 2002*



## Government Powers and Duties

### Uniform Municipal Contracting

A municipality (a county, town, city, school district, or other municipal corporation or political subdivision) may use direct negotiation without advertising for bids or otherwise complying with competitive bidding requirements, to enter into a multi-year professional services contract for engineering, repair, and maintenance of water storage tanks and related facilities.

*Ch. 358, § 1, amending Minn. Stat. § 471.345, by adding subd. 5b, effective May 2, 2002*

### Public Works Contracts; No Damages for Delay Clauses

A public works contract cannot limit the right of a contractor to recover costs or damages caused by acts or omissions within the control of the contracting public entity. A clause that limits a contractor's rights is void, unless it is a clause that: (1) requires notice of any delay, disruption, or acceleration by the party affected thereby; (2) provides for reasonable liquidated damages; or (3) provides for arbitration or any other procedure designed to settle contract disputes. A contract provision that is void must be severed from the rest of the contract, and does not affect the validity of the rest of the contract.

“Public works contract” means a contract of the state or a county, city, town, school district, special district, or any other political subdivision of the state for buildings, highways, and specified other works dealing with construction.

In 2001, the governor vetoed a law that addressed this issue.

*Ch. 299, adding Minn. Stat. § 15.411, effective August 1, 2002, and applies to public works contracts entered into on or after that date*

### Data Practices; Law Enforcement Access to Nonpublic Data

**It is not a violation of law to give law enforcement agencies nonpublic data.** The state auditor may share nonpublic data relating to an audit with law enforcement agencies, despite contrary provisions in chapter 13, or other statutes classifying government data. It is not a violation of chapter 13 or other laws classifying government data for any government entity to give the state auditor nonpublic data for the purpose of an audit or to comply with a current mandatory reporting law. A governmental entity may disseminate private personnel data or confidential data on employees to law enforcement agencies when reporting a crime or an alleged crime committed by an employee or when assisting law enforcement officials investigating a crime committed or allegedly committed by an employee. The identity of a mandated reporter reporting to the state auditor or legislative

auditor is nonpublic data.

**Charter commission members required to report theft of public funds.** A member of a charter commission is now within the definition of public employee under the criminal code governing public officers and employees. A public employee or public officer of a political subdivision or charter commission must promptly report theft of public funds to law enforcement as well as the state auditor. Under prior law, information was reported only to the state auditor and, under a separate subdivision, to the legislative auditor. No penalty is provided for failure to report.

When making a report under this law, an individual must include information related to the incident, including data that are nonpublic.

*Ch. 352, §§ 1, 2, 6, 7, 13, and 14, amending Minn. Stat. §§ 6.715, subd. 3, and by adding subd. 4, 13.43, by adding subd. 15, 13.82, subd. 17, 609.415, subd. 1, and 609.456, subd. 1, effective August 1, 2002*

## **Eminent Domain**

**Commissioners.** The court may now appoint persons who are not residents of the county to serve as commissioners in eminent domain proceedings.

*Ch. 390, § 1, amending Minn. Stat. § 117.075, effective May 23, 2002*

**Relocation expenses.** The 2001 provision authorizing an acquiring authority (every public and private entity with the power of eminent domain) to consider reimbursing a displaced business for up to \$50,000 in relocation or reestablishment expenses was modified in 2002 to limit the reimbursement to reestablishment.

*Ch. 364, § 1, amending Minn. Stat. § 117.51, effective August 1, 2002*

## State Funding and Regulation

### Phosphorous Lawn Fertilizer Ordinances

Most fertilizer products are made up primarily of varying amounts of the plant foods nitrogen, phosphorus, and potash. Phosphorus (phosphates) that enters surface waters can lead to excessive growth of algae and other plant pests. This law restricts the use of phosphorus fertilizers on lawns. It also prohibits any local regulation of phosphorus fertilizer for agricultural use.

Effective January 1, 2004, a person may not apply a fertilizer with phosphorus to turf in the metropolitan area (Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington counties) unless a soil test indicates it is needed, the fertilizer is being applied to establish new turf, or it is applied on a golf course under the supervision of a trained person. Outside the metropolitan area, use of phosphorus fertilizer is allowed but limited, although a local unit of government may ban its use. Local units of government are responsible for enforcement of the law, using their existing authority.

With one exception, after January 1, 2004, a local unit of government may not adopt or enforce any ordinance that prohibits or regulates turf fertilizer containing phosphorus. The exception is that it may continue to enforce an ordinance restricting the sale of turf fertilizer containing phosphorus that is in effect on August 1, 2002. State preemption of local phosphorus fertilizer ordinances does not preempt local authority related to zoning, fire codes, or hazardous waste disposal.

“Local unit of government” means a statutory or home rule charter city, town, county, soil and water conservation district, watershed district, another special purpose district, and local or regional board.

*Ch. 345, amending Minn. Stat. § 18C.005, by adding subd. 18a, effective August 1, 2002; § 18C.211, subd. 2, effective August 1, 2002; and adding § 18C.110, ¶¶ (a) and (d), effective April 20, 2002, and ¶¶ (b), (c), and (e), effective January 1, 2004, § 18C.60, effective January 1, 2004, and §§ 18C.61, 18C.62, effective August 1, 2002*

### Contested Case Procedures

The contested case procedures in [Minnesota Statutes, chapter 14](#) were amended to allow a state agency to provide by order at the beginning of a contested case that the report or order of the administrative law judge (ALJ) will be the final decision. The ALJ report is then the final agency decision unless the agency modifies or rejects it within 90 days after the record closes. An

agency decision must explain why the agency rejects or modifies an ALJ's findings or recommendations. Parties may agree to have an ALJ act as an arbitrator, as an alternative to contested case procedures.

*Ch. 251, amending Minn. Stat. §§ 14.57, 14.59, 14.61, 14.62, subd. 1 and by adding subd. 2a, 14.63, and repealing Minn. Stat. § 14.62, subd. 2, effective August 1, 2002, and applying to contested case proceedings initiated on or after that date*

**Land Exchange,  
Minnesota Corporate  
Farm Law**

In general, the Minnesota corporate farm law prohibits foreign or corporate ownership of farmland or foreign or corporate farming operations. Foreign and corporate farmland ownership and operations that existed at the time the law was enacted, however, were grandfathered-in.

A special law enacted in 2001 for the city of Bird Island allowed a public/private land exchange of land that was exempted from compliance with Minnesota corporate farm law so that the parcel received by the foreign investor or corporate owner from the local government in the exchange was granted the same exempt status.

The 2002 Legislature extended the special law to all local governments, allowing those grandfathered-in foreign or corporate farm owners and operators to swap that land with a local government and for the newly acquired land to be accorded the same status as the original land that was grandfathered-in.

*Ch. 373, § 32, amending Laws 2001, ch. 206, § 14 (including by codifying the provision as Minn. Stat. § 500.222), effective May 18, 2002*

**Loans from USDA Rural  
Business-Cooperative  
Service or Rural Housing  
Authority**

Cities, counties, and towns have expanded authority to make low- or no-interest loans with funds provided by rural electric cooperatives. The maximum loan amount is increased from \$250,000 to \$450,000 and loans may now be made for constructing, repairing, or acquiring city halls, libraries, and child care facilities, if otherwise authorized by law. As before, these loans are not subject to voter approval or net debt limits.

*Ch. 390, § 5, amending Minn. Stat. § 465.73, effective May 23, 2002*

### **Firefighter Arbitration**

Under current law, arbitration involving firefighters uses the “last-best-offer, total package” system. Under this system, the arbitrator must select the entire final offer of the employer or the entire final offer of the union, and cannot split the difference. This system was to expire June 30, 2003. Under the 2002 act, the sunset date is extended to June 30, 2006.

*Ch. 337, amending Minn. Stat. § 179A.16, subd. 7a, effective August 1, 2002*

### **Street Sweepers**

Street sweepers are now exempt from licensing and taxation. By including street sweepers in the definition of “special mobile equipment” in vehicle registration law, they are exempt from licensing and taxation.

*Ch. 250, amending Minn. Stat. § 168.011, subd. 22, effective August 1, 2002*

### **Funeral Processions**

A local ordinance must not prohibit the use of flashing red lights on motorcycles or vehicles owned by a funeral home for escorting funeral processions.

*Ch. 316, amending Minn. Stat. §§ 169.04, 169.64, subd. 3, effective August 1, 2002*

### **Emergency Vehicles**

A law enforcement vehicle responding to an emergency call may either sound a siren or display at least one red light to the front when going through a red traffic signal or stop sign, instead of sounding both a siren and showing red lights.

It is now a misdemeanor to intentionally obstruct an emergency vehicle or otherwise intentionally fail to yield to an emergency vehicle. Violations that are not intentional would continue to be petty misdemeanors.

Finally, a report from an emergency vehicle crew may establish probable cause for an arrest for failure to yield to an emergency vehicle, if a description of the vehicle and a license plate number are provided within four hours of the incident.

*Ch. 319, amending Minn. Stat. § 169.03, subd. 2, effective April 6, 2002, and § 169.20, subds. 5 and 5a, effective August 1, 2002*

**Electric Personal Assistive  
Mobility Devices -  
Segways**

“Segways” have been in the news and on TV in the last year. This law allows one to be used on a sidewalk. It defines an “electric personal assistive mobility device” as a self-balancing device with two nontandem wheels, designed to transport one person, and operated by an electrical system that limits maximum speed to 15 m.p.h.

The law prohibits local regulation from being more stringent than state regulation, except that local governments may allow and regulate the devices on roadways with a speed limit of more than 35 m.p.h.

Operators of the devices have the same rights and responsibilities as pedestrians, except where otherwise provided. They must be operated at a reasonable speed and one that is prudent under the conditions and must be operated with due care. Operation on a roadway is limited. Operators must yield to pedestrians at all times, and when on a bicycle path, to bicycles.

*Ch. 285, amending Minn. Stat. §§ 168.011, subd. 4, 169.01, subd. 3, and adding subd. 90, 171.01, subd. 3, and adding 169.212, effective August 1, 2002*

**Advance of Funds by  
Local Road Authorities for  
Highway Projects**

Since 1991, a local road authority could advance funds to the Department of Transportation to expedite construction of trunk highway projects, which the department repaid without interest. The advance may only be for projects already included in the commissioner’s highway work program, and the Department of Transportation cannot accept advances that would increase its repayment obligation to more than the amount stated in the department’s debt management policy or \$10 million per year, whichever is less. In 2001, road authorities were authorized to advance funds to the department to expedite interregional corridor projects within the same limit on the amount.

The 2002 Legislature amended and consolidated these provisions. The law now allows a local road authority to advance funds for metropolitan area bottleneck reduction projects, in addition to the current authority for trunk highway projects and interregional corridor projects. For each of these, the department’s annual repayment is limited to \$10 million (i.e., \$30 million total per year).

Finally, depending on the terms of the agreement for the advance, repayment may now include interest, to be calculated based on the interest rate earned on state cash.

*Ch. 364, §§ 6 and 41, amending Minn. Stat. § 161.361, and repealing Minn. Stat. § 161.362, effective August 1, 2002*

### **Moratorium Exemption, Transportation**

Consultant contracts paid entirely from dedicated transportation funds and contracts for trunk highway projects that are bottleneck reductions, interregional corridors, or advantages to transit are exempt from the moratorium in the 2002 budget reconciliation law on consultant contracts.

*Ch. 364, § 30, amending Laws 2002, ch. 220, art. 10, § 37, effective August 1, 2002*

### **Trunk Highway 55 Corridor Demonstration Project**

The Department of Transportation, in cooperation with the Trunk Highway 55 joint powers board, must establish a corridor protection demonstration project on Trunk Highway 55 from I-494 to Annandale. The department may make a grant to the joint powers board for a consultant to study future right-of-way needs, develop an official corridor map, assist municipalities to make plan amendments, and educate municipalities in corridor protection. The department must report to the legislature by January 15, 2004, the results of the corridor-protection demonstration project.

*Ch. 364, § 35, effective August 1, 2002*

### **911 Emergency Systems**

The 2002 Legislature made several changes to the administration of the 911 emergency services program to conform to current practice and technologies. Among those changes, the state, together with the county or other governmental agency (a local government with authority to provide police, fire, ambulance, medical, or other emergency services) operating public safety answering points, must contract with the appropriate telecommunications service providers for the maintenance, enhancement, and expansion of the 911 system. The contract must include a service and price list, and the Public Utilities Commission must approve the price list.

The law was updated to reflect that each county has designed its 911 system; the law now requires each county or other governmental agency to operate and maintain its 911 system. Each county or other governmental agency must ensure that a 911 call made with a wireless phone be automatically connected to

and answered by the appropriate public safety answering point. Also, each county or governmental agency must contract with the state and wireline telecommunications service providers for the recurring and nonrecurring costs associated with operating and maintaining the 911 systems.

The Department of Administration is responsible for coordinating the maintenance of 911 systems, responding promptly to public utilities commission filings by service providers, and it must establish a biennial budget and make an annual report to the legislature on the budget. A provider or governmental agency may petition the department for a waiver of all or a portion of the 911 system requirements, and the petition may be granted upon a demonstration that the requirement is not economically feasible.

Finally, every owner and operator of a telecommunications system (wireline, wireless, branch exchanges, pay phones) must design and maintain the system, exchange, or phone to dial 911 without charge to the caller.

*Ch. 372, amending Minn. Stat. §§ 403.01, 403.02, subds. 3, 6, 7, and adding 11 and 12, 403.05, 403.06, 403.07, 403.08, 403.09, 403.10, subd. 1, 403.11, subds. 1, 3, 4, and adding 3a, 3b, 3c, and 5, 403.113, subd. 1, effective May 18, 2002, except the provision amending Minn. Stat. § 403.11, subd. 3, which is effective January 1, 2003*

## **The Anti-Terrorism Act of 2002**

**Overview.** This act: (1) creates a Homeland Security Advisory Council; (2) permits counties to issue bonds for the purchase of public safety radio equipment (see page 26); (3) increases the fee for 911 service in order to fund statutory obligations, public safety access points, and an interconnected state radio system, and creates a governance structure for administering funds for the interconnected state radio system; and (4) amends various criminal laws. It also appropriates money for anti-terrorism training and terrorism response-related purposes.

**Homeland Security Advisory Council.** As part of the 2002 Anti-Terrorism Act, a Homeland Security Advisory Council is established to advise the Department of Public Safety on issues relating to homeland security, to review and recommend changes to all terrorism preparedness and antiterrorism policies and procedures, and to ensure coordination of and accountability for all state and federal antiterrorism and terrorism preparedness related funding.



The advisory council, which serves without compensation, consists of 27 members, including representatives of the Association of Minnesota Counties; the Association of Minnesota Townships; the League of Minnesota Cities; the public safety radio system policy group; the Minnesota state sheriffs association; and the Minnesota chiefs of police association. It must report each year by November 1 to the legislature an updated statewide terrorism preparedness implementation plan.

The advisory council expires on June 30, 2005.

*Ch. 401, art. 1, § 1, effective May 23, 2002*

**Funding.** Under prior law, the 911 fee on telephone bills was set at 27 cents. Under this act, the Commissioner of Administration may set the fee between 8 and 33 cents. It is anticipated that the fee will be 33 cents beginning July 1, 2002. The six-cent increase will be used to cover current statutory obligations through fiscal year 2004. In 2005, 1.5 cents of the increase will be used for increased funding to public safety answering points (primarily county-operated public safety dispatch centers) and 1.5 cents of the increase will be used to pay revenue bonds issued to fund the continued improvement and expansion of the public safety radio system in the metro area.

The Metropolitan Council may issue up to \$12,000,000 in revenue bonds for the second phase of the public safety radio system in the metropolitan area and in Isanti and Chisago counties (i.e., build out of the subsystems of local governments that did not do so during the first phase construction of the system backbone). Bond proceeds may pay for up to 30 percent of the cost to a local government of building a subsystem. The bonds must be issued to coincide with the revenue that will be available from the 911 fee beginning in fiscal year 2005.

*Ch. 401, art 1, §§ 3 to 11, amending Minn. Stat. §§ 403.11, subd. 1, 473.891, subd. 3, and by adding subd. 10, 473.898, subds. 1 and 3, 473.901, subd. 1, 473.902, subds. 1, 3, and 5, effective July 1, 2002*

**Planning committee.** The Commissioner of Public Safety must convene a public safety radio system planning committee. Committee members include representatives of state agencies, the sheriffs' association, the metropolitan radio board, the League of Minnesota Cities, and the Association of Minnesota Counties. The committee must implement a project plan and establish a

local planning initiatives (including bonding for infrastructure), and ensure that certain project management techniques are used. The planning committee must submit to the governor and legislature a status report by November 15, 2002, and a project plan by January 15, 2003.

*Ch. 401, art. 1, § 12, adding Minn. Stat. § 473.907, effective July 1, 2002*

## Energy Code

**Combustion and make-up air.** In 2000, the legislature set up criteria for ventilation in new detached single one- and two-family residential buildings where the builder opted to comply with the existing category 1 requirements of [Minnesota Rules chapter 7670](#) rather than the new energy code provisions in [Minnesota Rules chapters 7672 and 7674](#). The 2002 Legislature authorizes the Commissioner of Administration to adopt new rules for combustion and make-up air as part of the mechanical code, at which time the 2000 ventilation provisions will expire.

**Model codes.** The Commissioner of Administration is directed to review and analyze available model energy codes, and to adopt a new code with the recommendation of the construction codes advisory council.

*Ch. 317, amending Minn. Stat. §§ 16B.617, effective when rules containing these provisions are adopted, and 16B.70, subd. 1, effective April 6, 2002*

## Requests for State Bond Funding

A local government that wants a capital project funded with state bond proceeds applies to the Commissioner of Finance who then reviews the request and gives the governor and the legislature an evaluation of the request. Prior law required the local government to pass a resolution in support of the project. Now a local government must also prioritize all projects within its jurisdictions for which funding is being sought. Also, if predesign on a project has been completed, it must be submitted with the application to the commissioner.

*Ch. 393, § 35, amending Minn. Stat. § 16A.86, subd. 3, effective May 23, 2002*

## **Municipal Tort Liability**

### **Day Care Licensing and Swimming Pools**

The exception from municipal tort liability related to licensing day care facilities is expanded to exempt a municipality from tort liability for a claim arising out of a day care provider's use of a swimming pool located at the facility. The municipality is exempt from liability unless it had actual knowledge of the provider's failure to meet the licensing standards that resulted in a dangerous condition that foreseeably threatened the plaintiff.

*Ch. 333, § 3, amending Minn. Stat. § 466.03, subd. 6d, effective August 1, 2002*

### **Indemnification for Participation in Household Hazardous Waste Programs**

For purposes of state tort law indemnification, a local government unit is an employee of the state if the local government is under contract to the Pollution Control Agency (PCA) to operate or participate in a household hazardous waste program.

Indemnification applies (1) from and after the time the waste permanently leaves the local government's possession and comes into the possession of the PCA's authorized transporter, and (2) during the time the waste is transported between local government units by the PCA's authorized transporter.

"Indemnify" means to pay legal fees and damages on behalf of the local government.

The state is not required to defend or indemnify a local government unit to the extent of the local government's liability insurance. The right to indemnity is not a waiver of limitations, defenses, and immunities available to either the local government or the state.

*Ch. 265, amending Minn. Stat. § 115A.96, subd. 1 and by adding subd. 7, effective March 23, 2002*

## **Tax Increment Financing (TIF)**

### **Special Laws**

For specific TIF authority granted to individual local governments, see Special Legislation, [page 33](#).

### **Overview**

The 2002 Legislature made a number of policy and technical changes in various TIF and abatement laws.

### **Cancellation of TIF Grant Funds**

In 2001, the legislature created a grant program to make payments to municipalities for deficits caused by property tax reform changes. As part of the phase 1 budget balancing

legislation, the grant program was abolished and the appropriations for the TIF grant account (\$91 million in fiscal 2002, \$38 million in fiscal year 2003) were cancelled.

*Ch. 220, art. 13, § 8, repealing Minn. Stat. 2001, § 469.1799, subs. 1 and 3, effective March 1, 2002*

### **Early Decertification**

The requirement that early decertification of TIF districts must be approved by the Commissioner of Revenue is repealed. This provision is retroactive to the effective date of the provision, enacted in the 2001 tax law. This requirement was intended to prevent an early decertification from increasing a state grant from the TIF deficit fund. The phase 1 budget reconciliation law repealed the grant fund (see above).

*Ch. 377, art. 7, § 13, repealing Minn. Stat. § 469.176, subd. 1h, effective retroactive to July 1, 2001, and any early decertification of a TIF district made after July 1, 2001, is ratified*

### **Increment Pooling**

In determining whether a city may pool tax increments among its districts to pay deficits in one district, the existence of a guarantee of obligations by the individual or entity that would receive the payment under the pooling provision does not provide a basis for denial of the authority to pool by the Department of Revenue.

*Ch. 377, art. 7, § 3, amending Minn. Stat. § 469.1763, subd. 6, effective for increments payable in 2002 and thereafter*

### **TIF Deficit Reduction**

Cities may use the deficit reduction provisions that apply to TIF districts without being required to pool available increments from other districts first to reduce the deficits. The law also clarifies that “deficit” refers to an amount a city would have been obligated to pay to a developer if the 2001 property tax reforms had not taken place.

*Ch. 377, art. 7, § 4, amending Minn. Stat. § 469.1792, subd. 1, effective for actions taken and resolutions approved after June 30, 2002*

### **Extended Duration Abatements for Qualified Business**

Qualified businesses are allowed property tax abatements of up to 20 years. “Qualified business” is defined as a business with at least 50 percent of its payroll payable to employees who are engaged in manufacturing, agricultural processing, mining, research and developing, warehousing, or qualified high technology. This authority expires on July 1, 2004.

*Ch. 377, art. 7, § 5, amending Minn. Stat. § 469.1813, by adding subd. 6b, effective July 1, 2002*

### **Housing Replacement TIF Districts**

The parcel limit is increased from 100 to 200 parcels for the housing replacement TIF district provision that applies to the cities of Minneapolis, St. Paul, and Duluth.

*Ch. 377, art. 7, § 6, amending Laws 1995, ch. 264, art. 5, § 45, subd. 1, as amended, effective July 1, 2002*

## **Municipal Bonding**

### **Bond Issuance for Extra-Territorial Projects**

Neither a “municipality” nor an “authority” may issue bonds to acquire or improve property outside the issuer’s corporate boundaries unless:

- ▶ the issuer is the owner of the project,
- ▶ the governing body of the city in which the property is located (or the county for unincorporated areas or for property in more than one city or town) consents, by resolution, to the issuance,
- ▶ the bonds are issued under a joint powers agreement, if the property is within the boundaries of one or more of the parties to the agreement,
- ▶ the property is municipal public utility property, or
- ▶ the issuer is a municipal power or municipal gas agency.

“Municipality” means a city, county, town, or school district.  
“Authority” means an HRA, EDA, port authority, rural development finance authority, or other similar local government entity that can issue bonds.

*Ch. 390, § 14, adding Minn. Stat. § 471.656, effective for obligations issued or sold after June 30, 2002*

### **Street Reconstruction**

A municipality (city, county, town, or school district) may issue debt for street reconstruction without an election if the streets are reconstructed under a five-year reconstruction plan and issuance of the debt is authorized by unanimous vote of the governing body after notice and a public hearing. Issuance of the street reconstruction bonds is subject to reverse referendum (petition signed by 5 percent of the voters). The debt issued is subject to the municipality’s debt limits even if it would otherwise be exempt (e.g., because the debt is payable from special assessments).

*Ch. 390, § 18, amending Minn. Stat. § 475.58, by adding subd. 3b, effective May 23, 2002*

### **Industrial Revenue Bonds**

Municipalities may issue industrial revenue bonds for “related public improvements,” which are defined to mean local improvements listed under the special assessment statute (e.g., streets, sewers, water). These improvements are acquired and constructed by the contracting party under the bonds’ revenue agreement.

*Ch. 390, §§ 9, 10, 12, 13, amending Minn. Stat. §§ 469.153, by adding subd. 13, 469.155, subd. 3, 469.155, subd. 8, 469.157, effective May 23, 2002*

### **Refinancing Nonprofit Facilities**

A municipality may issue industrial revenue bonds to refinance the facilities of 501(c)(3) nonprofit organizations that primarily engage in educational activities as schools, arts organizations such as theaters and museums, and social service organizations, in addition to those authorized under prior law (health care and related facilities).

*Ch. 390, § 11, amending Minn. Stat. § 469.155, subd. 4, effective May 23, 2002*

### **Jail Bonds**

The statute governing when an election is not required before issuance of bonds to construct a county jail or sheriff’s residence was clarified. An election is not required if the principal and interest due in any year does not exceed an amount equal to 0.09671 percent of market value of taxable property in the county.

*Ch. 390, § 19, amending Minn. Stat. § 641.23, effective May 23, 2002*

## **Property Taxes and Aids**

### **Levy Limits**

**County police and firefighter relief association levies.** The required levy amount or contribution rate to police and firefighter relief associations cannot be reduced due to a special or general law. Beginning with levies payable in 2003, cities may impose a special levy outside of levy limits for any increases in levies for these relief associations in excess of the amount levied for taxes payable in 2002 for these purposes.

*Ch. 377, art. 6, §§ 1 and 5, amending Minn. Stat. §§ 69.77, by adding subd. 12, 275.70, subd. 5, effective beginning with taxes levied in 2002, payable in 2003*

**County court administration costs.** The special levy for court administration costs and the levy limit base adjustment for court administration costs are both reduced by the amount of fine and fee revenue that is shifted to the state along with the fiscal responsibility for court administration costs. The levy limit base adjustment was made retroactive to the payable 2002 levy limit but the special levy adjustment begins with payable 2003 levies.

The state is assuming court administrative costs in the second and fourth districts July 1, 2003, in the first and third districts July 1, 2004, and in the sixth and tenth districts July 1, 2005. These costs are already paid by the state in the rest of the judicial districts. The fine revenue will be shifted to the state at the same time that the costs are assumed.

*Ch. 377, art. 6, §§ 5 and 7, amending Minn. Stat. § 275.70, subd. 5, effective beginning with taxes levied in 2002, payable in 2003 and Minn. Stat. § 275.71, subd. 3, effective retroactively, beginning with taxes levied in 2001, payable in 2002*

**Aid loss adjustments.** Each city's pay 2003 levy limit base is increased by the amount of manufactured home HACA the city received in 2001. This aid was eliminated beginning in 2002 as part of the tax reform enacted in 2001. County and city levy limit bases are also increased by the amount of tree growth tax received in 2002, this aid is eliminated beginning in 2003. Without these adjustments a city or county cannot increase its levy to compensate for the lost aid since neither aid is part of the pay 2002 levy limit base.

*Ch. 377, art. 6, § 6, amending Minn. Stat. § 275.71, subd. 2, effective beginning with taxes levied in 2002, payable in 2003*

**Excess levy adjustments for certain jail levies.** For taxes payable in 2002 an error was made in calculating the levy limit for eight counties. These counties began using the special jail levy in 2002 but no adjustment was made to their levy limit base calculation to reflect moving this levy from the limited levy to the special levies. The error was not discovered until March of 2002.

Absent a law change, the affected counties would have had to reduce their pay 2002 levy and re-issue property tax statements. This is because current law does not allow spreading of "excess" levies.

The law clarifies that the starting point for calculating the levy limit for taxes levied in 2002, payable in 2003, will be the corrected pay 2002 levy limit. The law also implicitly allows the spreading of the “excess” levy in pay 2002, but makes an adjustment in each county’s levy authority in the next three years equal to one-third of the excess levy amount. Because levy limits are set to expire beginning in pay 2004, the actual penalty to each county may only be one-third of its excess levy amount.

*Ch. 377, art. 6, § 8, amending Minn. Stat. § 275.71, subd. 6, effective beginning with taxes levied in 2002, payable in 2003*

### **Wind Energy Production Tax, In Lieu of Property Taxes**

Beginning with taxes payable in 2004, wind energy conversion systems (but not the land on which the systems are located) are exempt from the property tax. Instead, these systems will be subject to a production tax. The system owner has the option of either being subject to the production tax or agreeing to an alternative tax negotiated with the county. The statutory production tax would be divided between all local taxing jurisdictions based on local tax rates while, an alternative tax would be divided only between the host municipality and the county.

The statutory production tax is based on the size of the wind energy conversion system. The tax is equal to the amount of energy produced in the previous year multiplied by one of the following:

- ▶ For systems with a nameplate capacity greater than 12 megawatts, .12 cents per kilowatt-hour;
- ▶ For systems with a capacity between 2 and 12 megawatts, .036 cents per kilowatt-hour; and
- ▶ For systems with a capacity of 2 megawatts or less, .012 cents per kilowatt-hour.

Systems with a capacity of .25 megawatts or less, as well as systems with a capacity of 2.0 megawatts or less which are owned by a political subdivision are exempt from the production tax.



The owner of the system must provide production reports by March 1 of each year to the Commissioner of Revenue. The commissioner shall certify to the county auditor the amount due on each system. This tax will be collected in the same manner as property taxes.

*Ch. 377, art. 4, §§ 6, 12, and 13, and ch. 400, § 9, amending Minn. Stat. §§ 272.02, subd. 22, 272.028, and adding 272.029, effective for property taxes payable in 2004 and thereafter, and for all wind energy production after December 31, 2002*

**Apartment Tax Base  
Replacement Aid Rolled  
into HACA**

The change clarifies how the separate apartment tax base replacement aid amounts get added to county HACA payments in 2003 and 2004. The addition occurs *after* the HACA payment from the previous year is adjusted for the increase in the number of households in the county.

*Ch. 377, art. 6, § 12, amending Minn. Stat. § 477A.02, subd. 2, effective beginning with aids payable in 2003*

**Taconite Aids: Shift of  
Certain Aid Payments  
from Cities and Towns  
Back to School Districts**

As part of the 2001 property tax reform effort and general education finance takeover, taconite aids paid to schools were shifted to the towns and cities located in those school districts beginning in 2002. Starting in 2003, cities and towns will no longer get these payments; 77 percent of the payments will be returned to schools to offset their remaining school levies and the remainder will be deposited in the taconite economic protection trust fund to be used for economic development programs.

The taconite payment to schools cannot offset more than 50 percent of the total remaining school levies in any district. Any excess of the 77 percent distribution after the offset will be paid to the cities and towns in that school district. Preliminary analysis indicates that very few cities or towns will receive any of this money.

*Ch. 377, art. 8, §§ 1, 2, and 7, amending Minn. Stat. §§ 126C.21, subd. 4, 126.48, subd. 8, and 298.28, subd. 4, effective beginning with aids payable in 2003*

**Pipeline Aid – Clearwater,  
Kittson, and Red Lake  
Counties**

Beginning with 2003 aids, counties with significant public utility property will receive a permanent increase in their homestead and agricultural credit aid (HACA) payments. The increase is compensation for tax base loss and corresponding large tax rate increases due to the class rate changes on utility property under the 2001 property tax reform. To qualify, at least 40 percent of the county's tax base in pay 2001 had to consist of public utility

property. The only three qualifying counties are Clearwater, Kittson, and Red Lake counties. The aid increase is equal to 83 percent of the county's pay 2002 tax revenues attributable to the reduction in tax capacity of public utility property between 2001 and 2002.

*Ch. 377, art. 4, § 20, amending Minn. Stat. § 273.1398, subd. 1a, effective for aids payable in 2003 and thereafter*

### **Lake Improvement Districts – Changes in Truth-in-Taxation and Tax Statement Notices**

Levies for lake improvement districts (LIDs) must be stated separately on the proposed taxation (truth-in-taxation) notice and on the final property tax statement. Currently, LID levies are included in the county levy on both the notice and the statement.

*Ch. 377, art. 4, §§ 22 and 23, amending Minn. Stat. §§ 275.065, subd. 3; 276.04, subd. 4, effective for notices of proposed property taxes prepared in 2002 for taxes payable in 2003 and thereafter and for final statements prepared in 2003 and thereafter.*

### **County Out-of-Home Replacement Aid**

The starting date for the new county out-of-home replacement aid passed as part of the 2001 property tax reform is delayed. The program was to begin with aids payable in 2003 but is delayed to aids payable in 2004. The HACA payment offset associated with this new aid program is also delayed from 2003 to 2004. The law was also amended so that if a growth factor was not set for this aid program for future years, the appropriation will remain at the previous year's amount.

This program was only to go into effect in 2003 if the commissioners of human services and corrections certified that accurate data was available to determine aids paid under this program. Although the commissioners certified that accurate data was available, the county associations requested a delay of the start of the program given the uncertainties due to the ongoing state budget crisis.

*Ch. 377, art. 6, §§ 4, 10, and 11, amending Minn. Stat. §§ 273.1398, subd. 4, 477A.0123, and 477A.03, subd. 2, effective beginning with aids payable in 2004*

### **Technical Corrections to Various Aid Programs**

The 2002 omnibus tax law, [chapter 377](#), article 10, makes numerous technical corrections to the statutory language for calculating a number of local aid programs. The changes are not substantive, but clarify how these aids are calculated.

Corrections were made to language for the following programs:

- ▶ Police state aid (§ 1);
- ▶ Temporary aid for court administration costs (§ 8);
- ▶ City LGA (§§ 26, 27, and 29); and
- ▶ Apartment tax base replacement aid (§ 28).

## **Cities**

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### **Local Government Aid (LGA)**

The local government aid reform account, created in 2001, is repealed and the appropriation of \$14 million for fiscal year 2003 was cancelled to the general fund as part of the phase 1 budget balancing legislation.

*Ch. 220, art. 13, §§ 7 and 11, repealing Minn. Stat. 2001, § 16A.1523, effective March 1, 2002*

### **Baseball Park**

The 2002 Legislature enacted legislation that provides a financing mechanism for a roof-ready major league baseball park with a maximum price of \$330 million. The state would issue revenue bonds, to be repaid with annual payments of at least \$12 million from the host city and the team along with investment returns on the required \$120 million upfront contribution from the team and other private sources.

**Site selection.** Individual cities in the seven-county metropolitan area, or combinations of metropolitan cities under a joint powers agreement, are eligible to host the baseball park. Counties are not eligible. Before state bonds are issued for the ballpark, the Commissioner of Finance must determine that the proposed host city has the financial capacity to make annual payments on the loan.

**Baseball reform.** The law requires that the executive council of elected state constitutional officers (governor, lieutenant governor, secretary of state, state auditor, attorney general, and state treasurer until that position is eliminated) determine whether major league baseball is making a “good faith effort to agree upon a new economic system” that will “enhance the competitiveness

of small market teams” and hence, the economic viability of the new ballpark. The council’s determination must be made within 30 days after a local referendum has passed, but no later than September 30, 2002. The Commissioner of Finance may issue bonds only after this determination is made.

**Local taxes.** The law authorizes the host city to impose one or more of the following taxes in order to repay the baseball park loan:

- ▶ Lodging tax, up to 5 percent,
- ▶ Food and alcoholic beverages, up to 5 percent,
- ▶ Admissions tax, up to 5 percent, only at the request of the Commissioner of Finance if investment returns on the upfront contribution are below 8.5 percent,
- ▶ Parking surcharge, at least \$2 per vehicle.

The city is limited to spending \$50 million on infrastructure related to the ballpark, and may not spend property tax revenues for the ballpark itself or infrastructure on the ballpark site. Before imposing a lodging tax or the food and alcoholic beverage tax, the voters must approve the taxes at a referendum held on a Tuesday before September 30, 2002. The taxes expire when the ballpark bonds are retired or defeased.

**Tax exemptions.** The ballpark is exempt from local property taxes, except for special assessments, until one month after the ballpark bonds are repaid. The purchase of construction materials used in building the ballpark are exempt from state and local sales taxes, until one year after the first major league baseball game is played in the park.

**Major league baseball guarantee.** Major league baseball must guarantee the continuance of a major league franchise in the metropolitan area for the greater of 30 years or the term of the bonds.

**Liquor license.** The host city is authorized to issue an intoxicating liquor license to the baseball park in addition to the number of licenses the city is authorized to issue by law.

**Football stadium.** The law also requests that the University of Minnesota and the Minnesota Vikings develop an agreement for a jointly used football stadium to be located on the Twin Cities campus. The agreement is to be presented to the legislature by December 1, 2002, and is to assume that stadium legislation will be passed by March 1, 2003, in order to take advantage of a National Football League construction program. The Metropolitan Sports Facilities Commission must deposit \$500,000 from its cash reserves into the football stadium account in the state treasury and that money is appropriated to the university to meet the cost of developing the agreement.

*Ch. 397, amending Minn. Stat. §§ 272.02, by adding subd. 50, 297A.71, by adding subd. 28, 473.553, subd. 14, adding 473.5995, and ch. 473I effective May 23, 2002*

### **Police Vehicles Color**

Municipal police department motor vehicles may now be predominately black as well as blue, brown, green, or white.

*Ch. 267, § 1, amending Minn. Stat. § 169.98, subd. 1, effective August 1, 2002*

### **Border Cities Housing Tax Exemptions**

**Property tax exemption.** The types of property that qualify for the property tax exemption under the border city development zone law now includes housing (apartment buildings, homestead, and nonhomestead residential). Previously, this authority applied only to commercial and industrial property.

Border cities include Breckenridge, Dilworth, East Grand Forks, Moorhead, and Ortonville.

*Ch. 377, art. 7, § 1, amending Minn. Stat. § 272.0212, subd. 4, effective beginning assessment year 2003*

**Sales tax exemption.** Border city development zone allocations may now be used to grant sales tax exemptions for building materials for housing in the zone. Previously, this authority applied only to commercial and industrial property.

*Ch. 377, art. 7, § 2, amending Minn. Stat. § 469.1734, subd. 6, effective for sales made after June 30, 2002*

## Counties

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### **County Bonding Authority for Public Safety Radio Systems; Anti-Terrorism Act**

The 2002 Anti-Terrorism Act, summarized on [page 12](#), gives 23 counties temporary authority to issue bonds for public safety radio system infrastructure and equipment. The counties are Anoka, Benton, Carver, Chisago, Dakota, Dodge, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Isanti, Mower, Olmsted, Ramsey, Rice, Scott, Sherburne, Steele, Wabasha, Washington, Wright, and Winona. The authority to issue bonds under this section expires in 2012. Counties may not issue bonds under this section unless approved by the public safety radio system planning committee created in [Laws 2002, chapter 401](#), article 1, section 12 (to be codified in [Minnesota Statutes, section 473.907](#)). Fourteen of these counties may not incur debt until after July 1, 2003.

Anoka county was given special legislation authority to issue debt for its public safety radio system. (See [page 33](#).)

*Ch. 401, art. 1, § 2, adding Minn. Stat. § 373.47, effective May 23, 2002, and expiring December 31, 2012*

### **Indian Casino Payments to Counties**

The state shares 10 percent of the state tax revenues generated by casinos owned by an Indian tribe with the county or counties in which the casino or casinos are located. Under the old law, the total payments made to all counties under this provision were capped at \$1.1 million per fiscal year. If the payments exceeded the cap, only counties that met one of the following criteria could receive a payment. The criteria were:

- ▶ The county's average per capita income was less than 80 percent of the state's average per capita income; or
- ▶ At least 30 percent of the market value of property in the county was tax exempt.

The law change eliminates the cap on the amount of payments and the criteria used to determine which counties get payments if the cap is exceeded. There is no immediate impact to this change since payments have never exceeded the limit and are expected to be less than \$800,000 annually for the next four years.

*Ch. 377, art. 3, § 1, amending Minn. Stat. § 270.60, subd. 4, effective for payments made after December 31, 2002*

**Client-Directed County Support Program for Developmentally Disabled**

A county board, upon approval by the Department of Human Services, may implement a program authorizing those responsible for county human services and public health clients to expend county funds for the benefit of those clients without following statutory procedures for disbursement of county funds. County boards implementing this program must institute financial controls to ensure proper disbursement of public funds. Essentially, this allows checking accounts to be set up so the caregivers may write checks for needed services.

*Ch. 271, amending Minn. Stat. § 375.18, by adding subd. 1c, effective March 26, 2002*

**Electronic Real Estate Recording**

In 2000, the legislature created the Electronic Real Estate Recording Task Force. In 2001, the legislature provided funding for this group by temporarily increasing the surcharge by 50 cents on the recording of deeds and similar documents with the county recorders. Prior to the 2001 legislation, the surcharge was \$4.50, of which the county retained 50 cents and \$4 went into the state general fund.

This act extends that surcharge to include similar documents filed with the county registrars of title. (There are two ways of keeping track of real estate titles in Minnesota: abstract and Torrens. If a property is abstract, documents are recorded with the county recorder. If a property is under the Torrens system, documents are filed with the county registrar of titles.) It also amends a current law on signatures in instruments affecting real property that are being recorded, by providing that electronic instruments, including signatures and seals, are recordable as part of the pilot project under the task force. Finally, this act also extends the life of the task force from June 30, 2003, to June 30, 2004, and extends the 50 cents surcharge to that date.

**Consolidated  
Conservation (Con-Con)  
Land**

*Ch. 365, enacted May 17, 2002, notwithstanding the veto of the governor; amending Minn. Stat. §§ 507.093 (effective August 1, 2002), 507.24, subd. 2 (effective August 1, 2002), 508.82, subd. 1 (effective until June 30, 2004, and applies to documents last acknowledged May 28 or later or filed after July 2, 2002), 508A.82, subd. 1 (effective until June 30, 2004, and applies to documents last acknowledged May 28 or later or filed after July 2, 2002); Laws 2000, ch. 391, § 1, subd. 2 (effective August 1, 2002), Laws 2001, 1st spec. sess., ch 10, art. 2, § 98 (effective May 18, 2002)*

**Payment distribution.** At least 15 percent of the amount paid from the con-con account must be distributed to the county for the rehabilitation and development of the portion of the county within the conservation area.

*Ch. 353, § 3, amending Minn. Stat. § 477A.14, effective May 2, 2002, for payments made in 2002 and after*

**Final designation of con-con lands as wildlife management areas.** The last of the undesignated con-con lands in Beltrami, Marshall, and Roseau counties are designated as wildlife management areas, effective January 1, 2003. In January 1999, the outgoing Commissioner of Natural Resources issued an order to designate these previously undesignated acres as wildlife management areas. The order was suspended less than a month later by the acting commissioner. After consultation with the counties and public review, the commissioner in 2001 recommended that the legislature designate these acres as wildlife management areas, and the legislation passed in 2002.

*Ch. 353, § 4, amending Minn. Stat. § 97A.133, various subdivisions, effective January 1, 2003*

**Wildlife management area access working groups.** The Commissioner of Natural Resources must establish an eight-member wildlife management area access working group in each of the counties of Beltrami, Marshall, and Roseau. Each working group will advise the commissioner on access issues on the wildlife management areas. Each group will consist of two representatives of the county board, two representatives of local all-terrain vehicle users chosen by the county board, two staff members from the regional DNR office, and two nonmotorized users of the wildlife management areas, chosen by the commissioner.

*Ch. 353, § 8, effective January 1, 2003*



## **Corrections**

A county board may require a convicted offender who is confined in a county facility to pay the cost of the offender's room, board, clothing, medical, dental, and other correctional services. If an offender is ordered to pay restitution, the offender must pay restitution before costs related to confinement.

*Ch. 322, amending Minn. Stat. § 641.12, by adding subd. 3, effective August 1, 2002*

## **Certain County Conveyances Validated**

Under [Minnesota Statutes, section 373.01](#), subdivision 1, clause (4), a county must advertise and hold a public hearing before conveying real property. This law provides that a deed of conveyance that has been of-record with the county recorder or registrar of titles for over five years but that was made without complying with the statute, is valid.

*Ch. 403, § 3, adding Minn. Stat. § 507.422, effective May 23, 2002, and applies to conveyances made before, on, or after that date. The law does not affect a proceeding on the validity of a conveyance if (1) the action is pending on May 23, 2002, or commenced before February 1, 2003; and (2) a notice of the action is filed or recorded before February 1, 2003, with the county recorder or registrar of titles where the property is located.*

## **Recording Non-English Documents**

County recorders and registrars of title must accept foreign language documents concerning real property titles if a translation and certificate of translation is attached. The law provides the form of the certificate a translator must complete. A certificate of translation or a certified copy of it is admissible as evidence in any proceeding about the title to the affected real property.

*Ch. 403, § 4, adding Minn. Stat. § 507.46, effective August 1, 2002*

## **Manufactured Homes; Statement of Taxes Paid Issued by the County Auditor**

Beginning July 1, 2002, the state registrar of motor vehicles will not be allowed to issue a certificate of title for a manufactured home unless a statement from the county auditor accompanies the application indicating that all personal property taxes on the unit that are due from the owner at the time of transfer have been paid. The property tax statements issued beginning in 2003 must notify the taxpayer that the manufactured home cannot be transferred unless the property taxes are paid. The one exception is for homes sold by a manufactured park owner as either abandoned property or after the death of a tenant.

*Ch. 377, art. 4, §§ 1, 2, and 15, amending Minn. Stat. §§ 168A.05, by adding subds. 1a and 1b, and 273.125, subd. 3, effective for transfers on or after July 1, 2002 and for tax statements beginning in 2003*

**Election Day Registration  
For Tribal Band Members**

A tribal band member living on an Indian reservation may prove residence for purposes of registering to vote on election day by showing an identification card issued by the tribal government of a tribe recognized by the Bureau of Indian Affairs, U.S. Department of the Interior, if it contains the name, street address, signature, and picture of the individual. The county auditor of each county having territory within the reservation must maintain a record of the number of election day registrations accepted under this authority. The secretary of state must report to the legislative committees with jurisdiction over election issues on the use of this provision by January 15, 2004.

*Ch. 394, amending Minn. Stat. § 201.061, subd. 3, effective August 1, 2002*

**Open Air Swine Basins**

After May 18, 2002, and until June 30, 2007, neither the Commissioner of Pollution Control Agency nor a county board may issue a permit for a new open air swine basin (with limited exceptions).

*Ch. 373, § 30 adding Minn. Stat. § 116.074, effective May 18, 2002, and expiring June 30, 2007*

## **Towns**

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**Temporary Officeholders**

A town board may declare a vacancy when an officer is unable to serve in the office or attend meetings for a 90-day period due to illness or absence or refusal to attend meetings. The town board may then appoint another to serve until the term expires or the absent member is again able to resume duties and attend meetings, whichever is earlier. The new law is substantially similar to authority that cities have in Minnesota Statutes, section 412.02, subdivision 2b.

*Ch. 241, amending Minn. Stat. § 367.03, by adding subd. 7, effective August 1, 2002*

## Development Authorities and Special Districts

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### Housing and Redevelopment Authorities (HRAs)

**Conflict of interest exception.** A public officer of an HRA, or other agency having the powers of an HRA, may receive a loan from a program using federal or state funds that is administered by the HRA if the public officer discloses his or her application in the HRA's meeting minutes and abstains from voting on the application.

*Ch. 356, amending Minn. Stat. § 471.88, by adding subd. 19, effective August 1, 2002*

**Eminent domain.** Before adopting a resolution authorizing acquisition of property using eminent domain powers, the HRA must hold a public hearing after publishing a notice describing the property to be acquired.

*Ch. 390, § 6, amending Minn. Stat. § 469.012, subd. 1, effective May 23, 2002*

**Housing bonds.** The maximum term of housing revenue bonds is extended from 30 years from issuance of the bonds to 30 years from the estimated date of completion of the project.

*Ch. 390, § 7, amending Minn. Stat. § 460.034, subd. 2, effective May 23, 2002*

### Sales Tax Exemption for Low-Income Housing Construction Materials

In 2001, a sales tax exemption was enacted for construction materials used for building low-income housing. The exemption applied to all the materials used in the housing or mixed-used project if at least 20 percent of the housing qualified as low income. The primary owner of the project had to be a public housing agency or a nonprofit corporation in order for the project to be eligible for the exemption.

Two changes were made to the exemption this year. The first change is to allow a *public* housing project that has a for-profit corporation or other entity as a partner or owner to qualify for the exemption. This change was made to ensure that the exemption applies to the Holman replacement units in the city of Minneapolis. The second change was to limit the exemption to materials used in the low-income portion of the project only. The actual exemption is equal to the tax on all the materials multiplied by the percent of the total square footage of the project classified as low-income housing.

The first change is retroactive to purchases made after July 31, 2001, while the second change is effective for sales made after June 30, 2002. The tax now must be paid when the materials are purchased and a refund applied for.

*Ch. 377, art. 3, §§ 13 and 17, amending Minn. Stat. §§ 297A.71, subd. 23, and 297A.75*

**Economic Development  
Authority Bonding**

The maximum term of economic development authority (EDA) bonds is extended from 20 years to 30 years.

*Ch. 390, § 8, amending Minn. Stat. § 469.102, subd. 2, effective May 23, 2002*

**Drainage Authority;  
Transfer of Drainage  
System**

In general, the law governing abandonment of a drainage system has worked for agricultural areas. As an area urbanizes, however, it has not worked as well because as long as even one person benefits, the drainage system cannot be abandoned. This law provides a process to make a drainage system (ditch or tile) a stormwater system by allowing a drainage authority to transfer the drainage system to a “water management authority,” which is broadly defined to include counties, cities, urban towns, and special purpose local districts with the power to manage storm, surface, and flood waters.

Under the water management authority, all benefited properties would be assured outlets of at least equal capacity to drain their property (and be assessed for that benefit), but those not benefiting would not be assessed and that portion of the drainage system could be abandoned. Finally, the water management authority must compensate any owner of property assessed for benefits on the transferred drainage system for loss or impairment of drainage rights.

*Ch. 327, amending Minn. Stat. § 103E.005, subd. 16, and adding subd. 29; adding § 103E.812, effective August 1, 2002*

**Minnehaha Creek  
Watershed District**

The stipulation agreement entered into between the Department of Transportation and the Minnehaha creek watershed district resolving litigation over restriction on the flow of Camp Coldwater spring from construction of Trunk Highway 55 supersedes the 2001 law that prohibits any state or local action to restrict that flow.

*Ch. 364, § 33, effective May 10, 2002*

## Special Legislation

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### **Pass-through Grants and Loans**

A number of appropriations were made to provide grants and loans to individual local governments for specific projects. For information on these individual appropriations, see the various omnibus finance bills.

### **Albert Lea, Liquor Licenses**

The city of Albert Lea may issue three on-sale liquor licenses in addition to those authorized in law.

*Ch. 318, § 4, effective April 6, 2002*

### **Alexandria**

**Telephone service.** The city of Alexandria may enter into a joint venture with Runestone Telephone Association and Runestone Electric Association to provide local niche service.

*Ch. 329, § 5, effective after local approval*

**Lakes Area EDA** – see below

### **Anoka County Public Safety Radio Infrastructure**

Anoka County may issue up to \$12,500,000 in capital improvement bonds and notes to finance the cost of designing, constructing, and acquiring public safety radio communication system infrastructure and equipment. The bonds and notes are not subject to election. The county may list any tax levied to pay off the debt as a separate line item on the property tax statement and proposed property tax notice. Authority to issue the debt expires ten years after the first debt is issued and all of the debt must mature within the ten-year period. No property taxes may be levied to pay off the bonds or notes after the ten-year period has run.

*Ch. 390, § 27, effective May 23, 2002*

### **Bloomington Local Lodging Tax**

Bloomington may increase its local lodging tax from 1 percent to 2 percent to fund its convention bureau. Additionally, Bloomington imposes a local lodging tax of up to 5 percent to pay for redevelopment of the Metropolitan Stadium site (now the Mall of America).

*Ch. 377, art. 3, § 20, amending Laws 1990, ch. 604, art. 6, § 9, subd. 1, as amended, effective after local approval*

**Brainerd, Liquor Licenses** The city of Brainerd may issue five on-sale liquor licenses in addition to the number authorized by law.

*Ch. 318, § 7, effective April 6, 2002*

**Carlton County** Under general law in [Minnesota Statutes, chapter 375A](#), a county may make the office of county recorder appointive if approved by a referendum. This law allows Carlton County to make the office of the county recorder an appointed position, subject to a four-fifths vote of the county board and reverse referendum.

*Ch. 263, §§ 1 to 4, effective after local approval*

**Central Iron Range Sanitary Sewer District** The Central Iron Range Sanitary Sewer District is established for the cities of Hibbing, Chisholm, and Buhl and the townships of Kinney, Balkan, and Great Scott, and the territory occupied by Ironworld. The district is under the control and management of the Central Iron Range Sanitary Sewer Board, which is a public corporation and political subdivision of the state. The board and district are to adopt a comprehensive plan for the collection, treatment, and disposal of sewage in the district. The plan is subject to St. Louis County planning and zoning. To implement the plan, the board may issue debt and impose special assessments against benefited property within the district to pay off the debt. The board may extend its system and services to other cities if requested or when ordered to do so by the MPCA. The board may also levy taxes to accomplish its purposes.

*Ch. 382, art. 2, effective after local approval*

**Chanhassen** The Department of Transportation (MnDOT) must issue a permit to Chanhassen to build a bikeway on the west side of the right-of-way of Trunk Highway 101 from Trunk Highway 62 to West 78<sup>th</sup> Street. The permit must be issued within 30 days of the laws effective date (by September 1, 2002).

The permit must allow the bikeway to be paved, six feet in width, and allow two-way bicycle travel and use as a pedestrian walkway, notwithstanding DNR rules on the width of bikeways. The path must be built within MnDOT design standards and utilize existing right-of-way to the extent possible, with minimum impact on adjacent properties and mature trees.

The department must repair, restore, or reconstruct the bikeway if made necessary by reconstruction of Trunk Highway 101 in conjunction with its turnback to local jurisdiction.

*Ch. 364, § 37, effective August 1, 2002*

## **Chisago**

A 2001 special session provision that allowed Chisago City and Wyoming township to set the time limit for the city's reimbursement for annexed property (a commercial and business park) as part of a joint powers agreement is repealed.

*Ch. 377, art. 4, § 26, repealing Laws 2001, 1st spec. sess., ch. 5, art. 3, § 88, effective July 1, 2002; see also ch. 380, art. 2, § 21, paragraph (b), repealing the same provision*

## **Chisholm**

Under legislation enacted in 2001, a city that had a population over 5,000 in 1990 and less than 5,000 but more than 4,900 in 2000 is deemed a city with a population of 5,000 for the purposes of municipal state aid for streets. Chisholm is the only city that fits this description; its 1990 was 5,290 and its 2000 population is 4,960. This status was due to expire June 30, 2004. Under 2002 special legislation, the June 30, 2004 sunset is repealed and Chisholm will remain a city of 5,000 for the purposes of municipal state aid for streets.

*Ch. 364, § 29, amending Laws 2001, 1<sup>st</sup> spec. sess., ch. 8, art. 2, § 6, effective August 1, 2002*

## **Cook County**

**Cemetery conveyance.** Cook County may convey the land and property of the Mineral Center cemetery to the Grand Portage Reservation if the county and the tribal council agree to the conveyance. The special legislation was needed because under general law, the county could only transfer ownership of the cemetery land and property to an existing cemetery association (not the Reservation).

*Ch. 237, effective March 15, 2002*

**Hospital district.** The Cook County hospital district was authorized by special law in 1989. In addition to correcting statutory references in the enabling legislation made necessary by the repeal of a statute (thought to be obsolete) in 1996, the law provides for the hospital district board, instead of the county board, to appoint a member to fill a vacancy. It also clarifies that the person elected at the next general election to the position filled by appointment serves either for a full term if the seat

would have been up for election that year, or for the remainder of that seat's term. The law specifies that the territory of the hospital district is all of Cook County. The statute allowing a city or town to be detached from the hospital district does not apply to the Cook County hospital district.

*Ch. 390, § 24, amending Laws 1989, ch. 211, § 8, as amended, effective after local approval by both Cook County and the Cook County hospital district*

**Road and bridge levy.** Cook County may expend the proceeds of its road and bridge levy in any organized or unorganized township or portion of a township within the county. General law limits the expenditure of the levy to the area within the township where the tax was levied, or if resident taxpayers of an unorganized township petition the county board, the county may spend the money on roads or bridges in an adjoining organized or unorganized township. Substantially similar laws were enacted for Itasca County in 1999, and for Lake of the Woods and Koochiching counties in 2000.

*Ch. 377, art. 4, § 25, effective after local approval*

**Coon Rapids, Liquor Licenses**

The city of Coon Rapids may issue six on-sale liquor licenses in addition to those authorized in law.

*Ch. 318, § 8, effective April 6, 2002*

**Cotton Township**

Cotton township's flood hazard mitigation grant under Minnesota Statutes, section 103F.161, subdivision 2, may be 95 percent of the total cost of the proposed mitigation measures. The statute provides that the grants are for up to one-half the costs.

*Ch. 366, § 33, effective August 1, 2002*

**Delano Public Utilities Commission Membership**

Under general law, a city's public utilities commission has three members, appointed by the city council. Under this law, Delano may increase its public utilities commission membership from three to five members. The terms are for three years, staggered, as under current law. In addition, no more than one city council member may serve on the commission at any time. This law is the same as the authority granted to Shakopee this year.

*Ch. 238, effective after local approval*



## **Duluth**

**Home energy loan fund, other uses.** Duluth may use money in its home energy loan program for other energy conservation programs, including a commercial enterprise energy loan program or a city climate protection program to reduce city energy consumption. The city may only use the money in this fund if all the bonds issued for the original program have been retired, no more energy loan bonds are issued, and any sums used for other energy saving programs are in excess of market demands for home energy loans.

Money for the program came from revenue bonds issued by the city, as authorized in special legislation in 1981 (chapter 223, expanded to include more multifamily homes in 1984, chapter 581). According to the city, the original loans paid interest below market rate, but still at a greater rate than needed to repay the revenue bonds so that a fund built up over time.

*Ch. 398, § 10, effective after local approval*

**Sales tax administration.** In 2001, legislation was enacted to require Duluth to let the state Department of Revenue collect and administer the city's local sales tax, beginning January 1, 2003. This requirement is now delayed until December 31, 2005. The Streamlined Sales Tax Agreement requires all state and local sales taxes to be administered by the state; however the state does not have to be in compliance until December 31, 2005.

*Ch. 377, art. 3, § 23, amending Laws 2001, 1<sup>st</sup> spec. sess., ch. 5, art. 12, § 82, effective July 1, 2002*

## **Eden Prairie, Liquor Licenses**

The city of Eden Prairie may issue five on-sale liquor licenses in addition to those authorized in law.

*Ch. 318, § 5, effective April 6, 2002*

## **Garfield**

The city of Garfield and the Minnesota Department of Transportation may exchange specified parcels of land in Douglas County. The property received by the state will become part of the state rail bank.

*Ch. 257, effective August 1, 2002*

## **Hennepin County**

**Medical center purchasing.** Hennepin County may, on behalf of the medical center, the ambulatory health center, or other clinics authorized under statute, make purchases under contract with a private or public cooperative purchasing organization, if

the purchasing organization's purchases, rentals, or leases have been made through a competitive process.

*Ch. 302, amending Minn. Stat. § 383B.217, subd. 7, effective August 1, 2002*

**Leases and off-street parking facilities.** The county now may lease real property from another entity for more than five years. Also, the county may acquire and better an off-street parking facility that is not related to a county building if the city council of the city in which the parking facility would be located approves. The law that prohibits Hennepin County from building more than one off-street parking facility in Minneapolis and limits the county's bonded indebtedness for the facility to \$11 million is repealed.

*Ch. 359, amending Minn. Stat. §§ 383B.159, 383B.20, subd. 1, repealing Minn. Stat. § 383B.20, subd. 4, effective after local approval*

**Mortgage registry and deed tax.** Hennepin County may impose for five more years (through 2008) its mortgage registry and deed taxes that fund the Environmental Response Fund (ERF). Under prior law, the authority to impose this tax would have expired January 1, 2003. These taxes equal 0.01 percent of the principal amount (for the mortgage registry tax) and deed amount (for the deed tax).

*Ch. 390, § 4, amending Minn. Stat. § 383B.80, subd. 4, effective May 23, 2002*

## **Hermantown**

Hermantown's city aid base (the guaranteed portion of local government aid, LGA) is permanently increased by \$200,000 beginning with aids paid in 2003. Several years ago Hermantown received a permanent aid adjustment of \$200,000 to compensate for some inequities related to taconite aids and other aid programs in the county. Usually special increases are added to LGA payments but Hermantown's was added to their HACA payment instead. When city HACA was eliminated in 2002 as part of the property tax reform, Hermantown lost this special aid adjustment. The addition of this amount to Hermantown's LGA payment treats the city equitably compared to other cities that have received aid adjustments for special circumstances.

*Ch. 377, art. 6, § 9, amending Minn. Stat. § 477A.011, subd. 36, effective beginning with aids payable in 2003*

### **Itasca County**

Itasca County's annual per capita spending limit for promoting tourism and agricultural and industrial development is increased from \$4 to \$10.

Since 1965, Itasca County has been allowed to use up to 30 percent of the net proceeds from the sale or rental of forfeited land or products of forfeited land for specified purposes, including land use planning, timber development, and promoting tourism and agricultural and industrial development.

St. Louis County was given similar authority in 2002.

*Ch. 390, § 20, amending Laws 1965, ch. 326, § 1, subd. 5, as amended, effective May 23, 2002*

### **Koochiching County**

Koochiching County's annual per capita spending limit for promoting tourism and agricultural and industrial development is increased from \$4 to \$10.

Since 1967, Koochiching County has been allowed to use up to 30 percent of the net proceeds from the sale or rental of forfeited land or products of forfeited land for specified purposes, including land use planning, timber development, and promoting tourism and agricultural and industrial development.

St. Louis County was given similar authority in 2002.

*Ch. 390, § 21, amending Laws 1967, ch. 170, § 1, subd. 5, as amended, effective May 23, 2002*

### **Lakes Area Economic Development Authority – Alexandria**

The Lakes Area Economic Development Authority is established as a political subdivision of the state and its initial members are the city of Alexandria, and the towns of Alexandria, Carlos, and La Grand. Any other city or town in Douglas County may join upon resolution of its governing body.

The EDA is governed by a board. The mayor or chair of the town board of each member selects one person to serve on the board, subject to the approval of the governing body of the member municipality. If a member municipality does not appoint a board member in the time required, the chief judge of the seventh judicial district must make the appointment. Board members serve for six-year terms, although initial terms are set to provide for staggering. A board member may be removed by unanimous vote of the appointing governing body, with or without cause. A board member does not have to be a resident of

the territory of the appointing member. Finally, board members must be paid per diem as well as expenses.

The Lakes Area EDA may use any statutory powers of EDAs, except as otherwise provided. The authority's fiscal year is the calendar year.

Certain laws governing an EDA that are not applicable to the Lakes Area EDA include: requiring an enabling resolution; setting out terms of commissioners; and establishing a procedure for a city to increase its levy amount for an EDA. The Lakes Area EDA does not have authority to issue general obligation bonds.

Member municipalities must levy a tax for the benefit of the EDA, with each member's share being a pro rata portion of the total amount of tax requested based upon the taxable market value within each member's jurisdiction, but not to exceed 0.01813 percent of taxable market value.

Any other municipality within Douglas County may petition the EDA to join after adopting a resolution by a four-fifths vote of all of its governing body.

A municipality may withdraw from the EDA by resolution of its governing body. A municipality must notify the EDA board at least two years in advance of the proposed withdrawal. Unless the EDA and the withdrawing member agree otherwise, the taxable property of the withdrawing member is subject to the EDA's property tax levy for two years following the notification to withdraw, and the withdrawing member retains any rights, obligations, and liabilities obtained or incurred during its participation.

The EDA may enter into contracts with nonprofit organizations for projects it undertakes. Laws governing corporations created under a political subdivision before May 31, 1997, do not apply as long as the governing board of the nonprofit is not the same as, or a majority of the members are not the same as, the governing body of the creating entity.

The law authorizing the Lakes Area EDA must be given full effect even if inconsistent with any other law or charter.

*Ch. 390, §§ 28 to 35, effective after the city of Alexandria, and the towns of Alexandria, Carlos, and La Grand have completed local approval*

### **Minneapolis Joint Venture Asphalt Plant**

Minneapolis may enter into a joint venture arrangement with a private entity to construct, operate, manage, and share output of an asphalt plant, without competitive bidding. The city must issue a request for proposals and the law lists factors the city may consider in reviewing the proposals. The city is also given discretion in how to weigh the factors. The joint ownership and management of the facility, and other business and property arrangements must be in the city's best interest. All construction contracts must be competitively bid by the joint venture under procedures consistent with the uniform municipal contracting law. Nothing in the act can be construed as requiring the city to enter into a joint venture or assume any costs to implement the joint venture. Finally, a city employee who works at the joint venture asphalt plant remains a city employee and any private party to the joint venture must recognize all exclusive bargaining representatives and existing labor agreements that apply to city employees.

*Ch. 264, effective after local approval.*

### **Montgomery**

Although the vast majority of statutory cities do not have wards (or authority to establish wards), there are a few that were grandfathered-in in the 1970s revision of municipal governance law. Up until 1996, there was a statute that allowed a statutory city to abolish its ward system, but it was repealed as obsolete. Thus, to either establish or abolish wards a statutory city needs special legislation.

This law allows the city of Montgomery by ordinance to abolish its ward system and provide for the election of council members at-large. The ordinance must be adopted by July 1 of the year in which it is to take effect.

*Ch. 296, § 3, effective March 27, 2002*

### **Moorhead Tax Levy**

The city of Moorhead will be allowed to levy a property tax on commercial/industrial (C/I) and public utility property in the city to pay for pre-existing TIF obligations. The maximum amount of the levy is limited to the amount of tax increments lost due to the class rate changes and the elimination of the general education

levy under the 2001 tax law. Because C/I properties in Moorhead qualify for the state-paid, border city disparity credits, the state rather than the C/I property owners will pay the actual cost of this levy. The disparity credit pays all of the tax in excess of an effective tax rate of 2.3 percent.

*Ch. 377, art. 11, § 1, effective after local approval*

### **New London, Spicer, and the Town of New London Consolidation**

Under [Minnesota Statutes, chapter 414](#), the statute providing for municipal boundary adjustments, two or more cities may consolidate into one, but cities and towns cannot use the consolidation process (which, unlike annexation, includes the opportunity for an election on the proposal). The only means for cities and towns to “consolidate” under [chapter 414](#) is through annexation.

This law allows the cities of New London and Spicer and the town of New London to develop a consolidation plan. If, after providing public notice, holding a public hearing, and holding an election on the proposal, the voters approve the consolidation, the communities are consolidated according to the plan.

*Ch. 296, § 2, effective March 27, 2002*

### **Pine County**

Under general law in [Minnesota Statutes, chapter 375A](#), a county may make the office of county recorder appointive if approved by a referendum. This law allows Pine County to make the office of the county recorder an appointed position, subject to a four-fifths vote of the county board and reverse referendum. It also allows the county to combine the duties of the recorder and the county assessor into one department, as long as the person appointed has the qualifications required in statute for assessors.

*Ch. 263, § 5, effective after local approval*

### **Pleasant Lake**

See the information on consolidation for the cities of Rockville and Pleasant Lake and the town of Rockville, below.

### **Polk County**

Under general law in [Minnesota Statutes, chapter 375A](#), a county may make the offices of auditor-treasurer and recorder appointive if approved by a referendum. This law allows Polk County to make the offices of the county auditor-treasurer and the county recorder appointed positions, subject to a four-fifths vote of the county board and reverse referendum.

*Ch. 258, effective after local approval*

**Proctor, Liquor License**

The city of Proctor may issue three on-sale intoxicating liquor licenses (two more than authorized in a 1999 special law for the city) in addition to the number authorized by law.

*Ch. 318, § 3, effective April 6, 2002*

**Ramsey County**

The authority for Ramsey County to impose mortgage registry and deed taxes is extended for five years (through 2008). Ramsey County has not exercised this authority. Under prior law, the authority to impose this tax would have expired on January 1, 2003. These taxes equal 0.01 percent of the principal amount (for the mortgage registry tax) and deed amount (for the deed tax).

*Ch. 390, § 3, amending Minn. Stat. § 383A.80, subd. 4, effective May 23, 2002*

**Region Nine Regional  
Development Commission;  
May Establish a Nonprofit  
Corporation**

The Region Nine Development Commission (Blue Earth, Brown, Faribault, Le Sueur, Martin, Nicollet, Sibley, Waseca, and Watonwan counties) may establish a nonprofit corporation to receive donations from donors that require recipients to be nonprofit organizations and thereby expand the sources of funding for Region Nine's services. (Region Nine's levy authority is set in [Minnesota Statutes, section 462.396](#), subdivision 2, at a maximum of \$343,572 or 103 percent of the previous year's levy, whichever is greater.)

The nonprofit must have a nine-member board, appointed by the Region Nine Development Commission. No more than five Region Nine Development commissioners may serve on the nonprofit's board of directors. The nonprofit's board members may not receive compensation but may be reimbursed for expenses.

The nonprofit must be incorporated under [chapter 317A](#) and comply with that chapter except as otherwise provided in this law.

The nonprofit's employees are not public employees and do not participate in retirement, deferred compensation, insurance, or other plans available to public employees.

The development commission may enter into contracts and leases with the nonprofit corporation.

[Minnesota Statutes, section 16A.695](#) applies to a management contract or lease agreement between the nonprofit and the

development commission. (Section 16A.695 is the statute that implements compliance with constitutional requirements for use of state general obligation bond funds when a facility funded with state bond funds is leased to another entity to carry out the program for which the facility was funded. It also governs the sale of state bond financed property, and default.)

The nonprofit also must comply with certain provisions in [Minnesota Statutes, section 465.719](#), the statute governing ratification and continuation of nonprofit corporations created by political subdivisions.

*Ch. 390, § 26, effective May 23, 2002*

### **Rochester Local Lodging Tax**

Rochester may impose a local lodging tax of 1 percent to fund a local convention or tourism bureau. This is in addition to the city's existing 3 percent lodging tax authorized in 1971.

*Ch. 377, art. 3, § 25, effective for lodging furnished on or after July 1, 2002*

### **Rockville, Pleasant Lake, and Town of Rockville Consolidation**

This law allows the cities of Rockville and Pleasant Lake and the town of Rockville to develop a consolidation plan following the requirements of [Minnesota Statutes, chapter 414](#) (which only provides for consolidations of cities). If, after providing public notice, holding a public hearing, and holding an election on the proposal, the voters approve the consolidation, the communities are consolidated according to the plan.

Although the communities had authority under this law to pursue consolidation, the communities followed the cooperation and combination process under the Board of Government Innovation and Cooperation in [Minnesota Statutes, sections 465.81 to 465.87](#). As provided in that law, an election on consolidating these three communities was held on April 29, 2002, and passed. Under the proposed plan, the new single city, Rockville, was established June 1, 2002. Although the Board of Government Innovation and Cooperation is abolished effective July 1, 2002 (see [page 5](#) above), the statutes allowing cooperation and combination plans remain in effect.

*Ch. 296, § 1, effective March 27, 2002*

### **Shakopee Public Utilities Commission Membership**

Under general law, a city's public utilities commission has three members, appointed by the city council. Under this law, Shakopee may increase its public utilities commission membership from three to five members. The terms are for three



years, staggered, as under current law. In addition, no more than one city council member may serve on the commission at any time. This authority is the same as the authority granted to Delano this year.

*Ch. 226, effective after local approval*

### **South St. Paul**

The city of South St. Paul may convey a parcel of land (specified in the law), acquired from the Minnesota Department of Transportation, to a private person or entity for the construction of single-family residential housing. The law finds that it is a public purpose for the city to facilitate the construction of single-family housing and to convey the land for that purpose.

*Ch. 390, § 25, effective May 23, 2002*

### **Southwest Regional Development Commission (RDC)**

The Southwest RDC may levy an additional property tax through taxes payable in 2011 in an amount sufficient, but not to exceed \$232,080 per year, to retire its debt in connection with the Prairie Expo project in Worthington. Alternatively, the RDC may issue bonds to retire the debt sooner and the levy may be used for debt service on the bonds. The maximum amount of bonds authorized is \$1,632,224.

*Background.* In 1994, the RDC was authorized to “establish, construct, and operate a facility to display, preserve, and interpret historical information and to enhance the tourism potential of the region [and] enter into a lease or management contract with another entity for operation of the facility.” [Minn. Stat. § 462.3911](#).

Prairie Expo was due to open in April 2000, but did not open until mid-September. Heating costs were much higher than expected and there was little visitor traffic to support operation costs. It lost almost \$500,000 in its first 10 ½ months of operation. The RDC closed the facility August 3, 2001. There remained unpaid capital costs and uncertainty about the future of the building and surrounding property.

The RDC’s debt on the facility, which would be paid off by the levy authorized in this law, includes the tax abatement bond issued by the city of Worthington to loan money to the Prairie Expo project, loans from counties and other public entities in the region, and unpaid bills related to design and construction of the facility.

Prairie Expo was financed in large part with state bond proceeds and, having been closed since August 3, 2001, it is in default on its state grant agreement. Unless a program is operated within the facility for which it was built, the RDC may have sell the property at fair market value, with proceeds going first to the state.

*Ch. 390, § 22, effective after approval by the RDC and each member county*

## **Spicer**

See the information on consolidation for the cities of New London and Spicer and the town of New London, above.

## **St. Cloud Area Local Sales and Use Tax**

The cities of St. Cloud, Sartell, Sauk Rapids, Waite Park, St. Joseph, and St. Augusta will be allowed to impose a local sales and use tax of 0.5 percent for three years, from January 1, 2003, through December 31, 2005. To impose the tax, all cities, except St. Cloud and Sartell, must have the imposition of the tax approved by the voters at a referendum held with the 2002 general election. St. Cloud and Sartell are allowed to impose the tax based on already approved referendums held in 2000 and 1999 respectively.

The revenues must first be used to fund capital projects at the St. Cloud regional airport. Any excess revenue will be distributed to the cities to fund other voter approved capital projects in the individual jurisdictions. These capital projects must be enumerated in their authorizing referendum. St. Cloud is limited to using their share of the excess revenues for road and park improvements enumerated in the bill. Sartell is limited to using their share of the excess revenues for a community center and parkland acquisition and development.

A joint powers agreement will be established to determine the amount of revenues in excess of the amount needed for the airport project. It will also determine the distribution of the excess to be returned to each city.

*Ch. 377, art. 11, § 2, effective after local approval (which requires voter approval in each city)*

## **St. Louis County**

Out of the proceeds of the sale or rental of tax-forfeited land or from the sale of any products from that tax-forfeited land, St. Louis County annually by resolution may apportion the balance remaining in the fund as follows:

- ▶ up to 30 percent for timber development on tax-forfeited land and dedicated memorial forests; and

- ▶ up to 20 percent for acquisition and maintenance of county parks or recreational areas, land use planning programs, and up to \$4 per capita on the promotion of tourist, agricultural, and economic development.

The money may be used to provide the county's share in any state or federal aid program related to these purposes.

The balance is divided between the county (40 percent), town or city (20 percent), and school district (40 percent). (Any town's share must be administered by the county.)

This law is substantially similar to the law for Itasca County (1965) and Koochiching County (1967), both amended in 2002 to allow up to \$10 per capita spending on tourism, agricultural, and industrial development.

*Ch. 390, § 39, effective after local approval*

## **St. Paul**

**Library agency.** St. Paul may establish by ordinance a library agency to govern all city libraries and library operations. The library is a governmental subdivision of the state and the city council is the library board. Mayoral veto and override operate the same as they do for other actions of the city council. Library employees are city employees (as they are now). The city may transfer property to the library agency for library purposes. The library board (the city council) must designate a chair, secretary and treasurer, and may adopt bylaws. The mayor appoints the director of the library agency.

The library agency may issue general obligation bonds as authorized by the city council to acquire real and personal property and to make capital improvements. Issuance of the bonds is not subject to an election, except as provided in the city charter. Bonds for the library agency are outside the city's debt limit. The city levies for the library agency and the levy must be listed separately on the Truth in Taxation statement.

*Ch. 390, § 2, amending Minn. Stat. § 275.065, subd. 3, effective for tax notices prepared after May 23, 2002, and §§ 36 to 38, effective after local approval*

**Five-year capital improvement program.** St. Paul's five-year capital improvement program bonding authority is extended for ten years, until 2013. The maximum aggregate principal amount of bonds that the city may issue is \$20 million per year, the same level permitted under prior law.

*Ch. 390, § 23, amending Laws 1971, chapter 773, § 1, subd. 2, as amended, effective May 23, 2002*

**Citizen advisory panel for local sales tax use.** The makeup of the citizen review panel that recommends how to distribute a portion of the St. Paul local sales tax to neighborhood projects is changed. The old law provided for 17 members, one from each city district council. The change will make it a 21-member board with three residents chosen from each of the city's seven city council wards.

*Ch. 377, art. 3, § 21, amending Laws 1998, ch. 389, art. 8, § 37, subd. 2, effective after local approval*

**Sales tax exemption for RiverCentre construction.** Repeal of the sales tax exemption for construction materials used in the RiverCentre project is delayed until December 31, 2002. This provision was originally set to expire June 30, 2001.

*Ch. 377, art. 3, § 24, amending Laws 2001, 1<sup>st</sup> spec. sess., ch. 5, art. 12, § 95, effective for purchases made after June 30, 2001, for projects begun prior to June 30, 2001*

## **Steele County**

Under general law in [Minnesota Statutes, chapter 375A](#), a county may make the office of recorder appointive if approved by a referendum. This law allows Steele County to make the office an appointed position, subject to a four-fifths vote of the county board and reverse referendum.

*Ch. 256, effective after local approval*

## **Thief River Falls, Nonprofit Corporation for a Community or Regional Center**

Thief River Falls may establish a nonprofit corporation to operate a community or regional center in the city. The city wants to establish the nonprofit corporation so it can avoid paying sales tax on the construction costs of the center. Local government purchases are subject to sales taxes but purchases by nonprofits organized for charitable, religious, or educational purposes are exempt from the sales tax. Construction materials purchased by these nonprofits may also be exempt if the construction contracts are structured appropriately.

A five-member board appointed by the city council will run the nonprofit corporation. Up to three of the five board members may be city council members. The board members may not receive compensation but may be reimbursed for expenses.

The nonprofit corporation must be incorporated under [chapter 317A](#) and comply with that chapter, except as otherwise provided in this law.

The nonprofit's employees are not public employees and do not participate in retirement, deferred compensation, insurance, or other plans available to public employees.

The nonprofit must comply with certain provisions in Minnesota Statutes, section 465.719, governing ratification and continuation of nonprofit corporations created by political subdivisions.

*Ch. 377, art. 12, §16, effective July 1, 2002*

**Walker, Ah-Gwah-Ching  
Water Tower**

The city of Walker may take over operation and maintenance of the water tower at Ah-Gwah-Ching.

*Ch. 358, § 2, effective May 2, 2002*

**West St. Paul, Liquor  
Licenses**

The city of West St. Paul may issue two on-sale liquor licenses in addition to the number authorized by law.

*Ch. 318, § 6, effective April 6, 2002*

**TIF Special Legislation**

**Albert Lea.** The city of Albert Lea may establish a redevelopment TIF district that is exempt from various restrictions under general law:

*Blight test.* General law requires each noncontiguous part of a redevelopment TIF district to meet one of the law's "blight tests" (i.e., the rules that define the types of geographic areas that contain blighting conditions permitting establishing these districts). This provision allows the city to create a redevelopment district consisting of two defined areas (a "redevelopment parcel" and a "reconstruction parcel"). Both areas would not be required to independently satisfy one of the blight tests. If the "redevelopment parcel" meets the basic blight test (70 percent of the area of its parcels are occupied by buildings and 50 percent of the buildings are structurally substandard), then, the entire district qualifies as a redevelopment district, even though the percentage tests are not met for the overall district.

*Spending to cure blight.* General law requires redevelopment districts to use 90 percent of their increment revenues for “the cost of correcting conditions that allowed designation of” the district (i.e., blight, such as the presence of structurally substandard buildings). This provision deems that any amounts spent for site acquisition, preparation, or installing public utilities within the area of the district satisfies the blight correction requirement.

*Five-year rule.* This provision extends the “five-year rule” to ten years. Under general law, the five-year rule essentially requires development activity for a TIF district to be finished within five years after certification of the district’s original tax capacity. After this five-year period has expired, increments may only be spent to pay off obligations that were incurred to fund work done during the five-year period. When these obligations are paid (or enough money has been collected to pay them), the district must be decertified.

*Ch. 377, art. 7, § 7, effective after local approval by the city*

**Dakota County.** Dakota County may extend the duration of the Community Development Agency’s South Robert Street redevelopment district for up to five additional years. The maximum amount of increment may not exceed the loss in increment that resulted from the 2001 property tax reform over the district’s term without the extension.

*Ch. 377, art. 7, § 12, effective after local approval by the city, county, and school district*

**Minneapolis Community Development Agency.** The Minneapolis Community Development Agency (MCDA) may extend the duration of the East Hennepin and University tax increment district for a period of up to seven years or until all amounts payable to developers and to the MCDA to repay a \$1.1 million loan by the MCDA from the city of Minneapolis HOME funds are paid. The maximum amount of increment may not exceed the loss in increment that resulted from the 2001 property tax reform over the district’s term without the extension.

*Ch. 377, art. 7, § 9, effective after local approval by the city, county, and school district*

The MCDA may extend the duration of the Southeast Minneapolis Industrial Area Redevelopment Area Phase IV tax

increment financing district. The district must terminate, upon payment in full of the MCDA tax increment revenue note in the amount of \$1 million. The maximum amount of increment may not exceed the loss in increment that resulted from the 2001 property tax reform over the district's term without the extension.

*Ch. 377, art. 7, § 10, effective after local approval by the city, county, and school district*

A grant of \$2.6 million is provided from the general fund to the MCDA for the Washburn-Crosby Mill City Museum project, to be dispersed July 1, 2002.

*Ch. 377, art. 7, § 11, effective July 1, 2002*

**Rushford.** The city council of Rushford may extend the duration of its downtown TIF district by up to two additional years.

This district is a redevelopment district. It was established in 1980 and is scheduled to be decertified in 2006. In 1995, the city issued general obligation bonds, secured by increments from the district, that had maturities extending through 2008 or two years after decertification of the district. The bonds payable in 2007 and 2008 were to be paid with increments accumulated before the district's decertification in 2006. The 1997-98 property tax class rate changes caused a significant reduction in increments from the district. The city did not qualify for a state deficit reduction grant under the grant fund established by the 1997 legislation, because entitlements to grants are calculated on an annual basis while the TIF district is an active district. In each year of its life, the district collected sufficient increments to pay the obligations due in that year. But the district was not able to accumulate sufficient increments to pay the obligations due after decertification, in calendar years 2007 and 2008. The bill would extend the duration by two years to provide sufficient increments to pay these obligations.

*Ch. 377, art. 7, § 8, effective after local approval by the city, county, and school district*

## Metropolitan Government

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### Metropolitan Council

**Transit capital bonding authority.** The Metropolitan Council may issue debt up to \$54 million for capital expenditures for the council's regional transit master plan and transit capital improvement plan. None of the money may be used for computer software or construction, maintenance, or operation of light rail transit or commuter rail.

*Ch. 390, § 16, amending Minn. Stat. § 473.39, by adding subd. 1i, effective May 23, 2002*

**Metropolitan Transit police; investigations and search warrants.** The Metropolitan Transit police are now allowed to carry out investigations related to an offense within the Metropolitan Council's jurisdiction, meaning that the offense relates to the council's transit property, equipment, employees, or passengers. The transit police may carry out the investigation only with the authorization of the local law enforcement agency with primary jurisdiction, and must develop a policy for notifying the local law enforcement agency when an investigation is initiated. Metropolitan Transit police officers now may be issued search warrants in the same manner as other peace officers.

*Ch. 291, amending Minn. Stat. §§ 473.407, subds. 1, 2, and 3, and repealing subd. 4a, and 626.05, subd. 2, 626.11, and 626.13, effective March 27, 2002*

**Priority for livable communities projects.** The Metropolitan Council may give priority in making grants from the liveable communities fund to projects that will lead to the production of affordable housing, rather than commercial and industrial development.

*Ch. 390, § 15, amending Minn. Stat. § 473.252, subd. 3, effective May 23, 2002*



**Eligibility for livable communities funding.** Housing and redevelopment authorities, economic development authorities, and port authorities are now eligible to receive grants under the livable communities act. In each case, the projects funded must be in eligible municipalities. The law also clarifies the conditions for electing to participate or to revoke participation in the local housing incentives account (participation in the housing incentives account makes a municipality eligible to receive funds under other livable communities act programs).

*Ch. 246, amending Minn. Stat. § 473.253, subd. 2, 473.254, subds. 1 and 6, 473.255, subds. 1 and 4, effective March 22, 2002*

**Transfer or disposal of interceptors.** The Metropolitan Council may transfer to a local unit of government a wastewater interceptor no longer needed under the council's comprehensive plan for wastewater collection, treatment, and disposal. The new law also provides a procedure for the Metropolitan Council to make the transfer.

*Ch. 278, adding Minn. Stat. § 473.5111, effective December 31, 2002*

**External use of existing service capacity.** The Metropolitan Council may enter into arrangements with other public or private entities to provide service capacity to those entities for compensation when the council has service capacity that is temporarily unused. This would extend authority granted to the council for a pilot program in 1998.

The new law also changes depreciation rates for wastewater treatment facilities. The new rates differentiate between treatment works, interceptors that operate under pressure, and interceptors that do not operate under pressure.

Finally, the law repeals obsolete rules establishing a procedure to recover costs from industrial users in compliance with an expired federal law.

*Ch. 320, amending Minn. Stat. § 473.129, by adding subd. 11, effective July 1, 2002, § 473.511, subd. 4, effective April 9, 2002, and applies to facilities of which the council assumes ownership on or after that date, and repealing Minn. Rules, ch. 5900, effective April 9, 2002*

## **Public Safety Radio Funding**

Under the Anti-Terrorism Act, the Metropolitan Council is authorized to issue up to \$12 million in revenue bonds for public safety radio infrastructure development by local governments in

the seven-county metropolitan area and in the counties of Isanti and Chisago. Bond proceeds may pay for up to 30 percent of costs to a local government. For an overview of the Anti-Terrorism Act of 2002, see page 12, above.

*Ch. 401, art. 1, § 7, amending Minn. Stat. § 473.898, subd. 3, effective July 1, 2002*

### **Metropolitan Agencies; Recycling Containers**

Previously, the requirement to provide recycling containers applied to the state and local governments and school districts. Under this law, it applies to “public entities.” A “public entity” is the state, an office, agency, or institution of the state, the Metropolitan Council, a metropolitan agency, the metropolitan mosquito control district, the courts, a county, city, town, or school district, a special taxing district, or other entity that receives an appropriation from the state for a capital improvement project.

*Ch. 312, § 2, amending Minn. Stat. § 115A.151, effective August 1, 2002*

## **Vetoed Legislation**

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### **State Auditor, Miscellaneous Reports**

This law would have provided for certain local government information that is currently reported to the state auditor to be reported to other agencies.

**Fees; accounting (solid waste management).** A political subdivision that provides solid waste management would have reported on the revenue collected annually to the Office of Environmental Assistance instead of reporting to the state auditor.

**Reporting requirement (disposition of forfeited property).** Information on forfeiture incidents would have been reported to Minnesota Planning in place of the state auditor.

Finally, it would have repealed the requirement for the state auditor to collect information and report on legal expenditures of local governments.

*Ch. 309 (H.F. No. 3506/S.F. No. 3084)*