August 2003

2003 Legislation Relating to Local and Metropolitan Government

This report describes legislation enacted in the 2003 regular and special sessions 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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Contents

Introduction

All the citations in this report are to Laws 2003, regular or first special session, unless otherwise indicated. For information on laws enacted in 2003 that may affect local government and are not covered in this report, see the acts or act summaries for:

Agriculture	Chapter 128, articles 3 to 8
Capital Investment	1st Special Session, Chapter 20
Economic Development	Chapter 128, articles 10 to 15
Environment and Natural Resources	Chapter 128, articles 1 and 2
Health and Human Services	1st Special Session, Chapter 14
Public Pensions	1st Special Session, Chapter 12
State Government Finance	1st Special Session, Chapter 1
Taxes	1st Special Session, Chapter 21, and Chapter 127
Transportation	1st Special Session, Chapter 19

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

Local Government Generally

Land Use, Planning, Zoning

Fee Schedules

Smaller cities and towns may use fee schedules adopted by resolution to set fees covering the costs of reviewing, investigating, and administering applications related to planning and zoning matters. A city or town with annual cumulative fees of $5,000 or less may set fees in a schedule established by resolution or ordinance, following notice given at least ten days before a public hearing held to consider the matter. As before, cities and towns with more than $5,000 in fees per year must establish fees by ordinance.

Ch. 93, amending Minn. Stat. § 462.353, subd. 4 and adding subd. 4a, effective August 1, 2003

Construction and Development Fees Report

The 2001 Legislature enacted a provision requiring municipalities to report construction and development-related fees to the state starting in 2003 as part of a "development streamlining" act. Municipalities with fees of $5,000 or less for any given year are exempt from the reporting requirement for that year. Also, the annual reporting date was moved from April 1 to June 30.

Ch. 6, amending Minn. Stat. § 16B.685, effective April 4, 2003

60-Day Rule: Deadline for Agency Action

The 60-day rule, originally enacted in 1995, has been a source of litigation between local governments (included in the definition of "agency") and developers. The 2003 Legislature modified the law in order to clarify certain provisions and eliminate certain problems.

- A request is defined to mean a written application on a form provided by the agency. If no form is provided, the written application must provide all the required information and state on the first page the specific permit or license or other governmental approval sought. The application fee, if any, is one of the items that must be paid before an application is complete and the time for action begins to run.

- Now, when a decision is being made by a multimember governing body, failure of a resolution or motion to approve a request means the request is denied as long as the

governing body provides its reasons. The reasons must be provided on the record at the time of the vote on the motion. A written statement of reasons is provided to the applicant before the expiration of the time allowed for a decision.

- The law exempts the subdivision regulation review process and the plat review process from the 60-day rule.
- The time the agency has to inform an applicant that the application is missing some required element is extended from ten business days to 15 business days.
- Finally, the law now provides for the applicant to request an extension of time in writing.

Ch. 41, amending Minn. Stat. § 15.99, effective for June 1, 2003, for requests submitted on or after that date

Annexation

Town roads. When a municipality annexes property that abuts one side of a town road, the segment of town road abutting the property must be treated as a line road, making it subject to the law that provides for agreements on costs between the town and the city. When a municipality annexes property on both sides of a town road, the road ceases to be a town road and becomes a municipal responsibility. The annexing municipality may contract with the town for maintenance. Such an annexed road may be considered as a town road for purposes of county road and bridge revenues for the year in which the annexation occurs.

Easements. If a municipality annexes property in which an affected town holds an easement for public benefit, the easement interest continues unless the town agrees otherwise.

1st spec. sess., ch. 19, art. 2, §§ 60 and 61, adding Minn. Stat. §§ 414.038, 414.039, effective June 9, 2003

Northern Counties Land Use Coordinating Board

In 2002, the board was authorized to initiate a pilot project under Minnesota Planning to promote cooperative efforts among various levels of government regarding land use. The 2003 Legislature appropriated $100,000 for the pilot project and extended it until June 30, 2005.

1st spec. sess., ch. 1, art. 1, § 10, effective July 1, 2003

Municipal Boundary Adjustments Office

Although not a legislative action, the office of municipal boundary adjustments, part of Minnesota Planning since 1999, was moved to the Department of Administration by executive reorganization.

Government Powers and Duties

Best Practices Reviews

Beginning July 2004, the state auditor is charged with conducting best practices reviews that examine the procedures and practices used to deliver local government services. The state auditor will bill the commissioner of revenue for costs of the reviews. The amount billed is included in the current limit of $217,000 per year in state auditor services that are billed and subtracted from the total amount available for local government aid payments. The legislative auditor has been charged with conducting best practices reviews since 1994 and this law repeals that requirement.

1st spec. sess., ch. 1, art. 2, §§ 16, 120, 136, adding Minn. Stat. § 6.78, amending Minn. Stat. § 477A.014, subd. 4, repealing Minn. Stat. § 3.971, subd. 8, effective July 1, 2004

Open Meeting Law

Opinions. The commissioner of administration may give a written opinion:

- upon request of a body subject to the open meeting law on any question relating to the body's duties under that law;
- upon request of a person who disagrees with the manner in which members of a governing body perform duties under the open meeting law on compliance with that law.

A governing body or person requesting an opinion must pay the commissioner a fee of $200 if the commissioner issues a written opinion. (Any fees paid are appropriated to the commissioner.) The commissioner may decide not to issue an opinion. Otherwise, the commissioner must issue the opinion within 20 days, unless the commissioner extends the deadline for one 30-day period. The commissioner must provide members of a governing body subject to the open meeting law reasonable opportunity to explain how they perform their duties under chapter 13D.

Opinions are not binding on members of a body subject to

chapter 13D. Unlike opinions under the Data Practices Act, a court is not required to give deference to an opinion dealing with the open meeting law. As is the case with opinions under the Data Practices Act, members of a governing body who act in conformity with a commissioner's written opinion are not liable for fines, attorney fees, or other penalties. Also, a member of a governing body who acts in reliance on an opinion is not subject to the forfeiture of office penalty under the open meeting law.

1st spec. sess., ch. 8, art. 2, §§ 1 and 2, amending Minn. Stat. § 13.072, subd. 1, 2, effective August 1, 2003

Data Practices

Computer data. A government entity that collects electronic access data or uses cookies must so notify a person who gains access to the government's computer. The government must inform the person how the data will be used and disseminated. The government must let a person access computerized information even if the person refuses to accept cookies.

Electronic access data may be disseminated to (1) the commissioner of administration to evaluate electronic government services; (2) another government entity to prevent unlawful intrusions on government computers; or (3) as otherwise provided by law.

"Electronic access data" is classified as private or nonpublic and means data created, collected, or maintained about a person's access to a government computer in order to get information, transfer information, or use government services. "Cookie" means data a government-owned computer electronically places on the computer of someone who accesses the government computer.

1st spec. sess., ch. 8, art. 2, § 4, adding Minn. Stat. § 13.15, effective August 1, 2003

Action to compel compliance. Attorney fees may be awarded to a winning plaintiff if: (1) the government defendant in the case was also the subject of a written advisory opinion, and (2) the court finds the opinion is directly related to the issue being litigated and the government did not follow the opinion.

1st spec. sess., ch. 8, art. 2, §§ 3 and 21, amending Minn. Stat. § 13.08, subd. 4, effective August 1, 2003, and applies to actions commenced on or after August 1, 2003

National Night Out. The location of a National Night Out event

is now public data in the provision on crime prevention data.

1st spec. sess., ch. 8, art. 2, § 7, amending Minn. Stat. § 13.37, subd. 3, effective August 1, 2003

Employee suggestions. Suggestions by a government employee to the government employer that are part of the employer's self-evaluation effort are private personnel data. If the suggestion identifies another employee, the information is available to that person.

1st spec. sess., ch. 8, art. 2, § 8, amending Minn. Stat. § 13.43, subd. 1, effective August 1, 2003

Data sharing within one county. County welfare, human services, corrections, public health, and veterans services units within one county may inform each other whether an individual or family is being served. The individual's or family's consent is not needed in order to share name, phone number, address, and county personnel who worked with the individual or family. Further information can be shared only (1) with the subject's consent, or (2) as authorized by state or federal law.

1st spec. sess., ch. 8, art. 2, § 9, adding Minn. Stat. § 13.468, effective August 1, 2003

Burial sites data. Location and related data for burial sites maintained on the state archaeologist's website are "security information" and nonpublic data. Persons who access the information from the website and improperly use or further disseminate it are subject to the Data Practices Act remedies and penalties.

1st spec. sess., ch. 8, art. 2, § 17, adding Minn. Stat. § 307.08, subd. 11 effective August 1, 2003

Cemeteries; Correction of Interment Errors

If a public or private cemetery becomes aware that it has interred or permitted interment of a burial container in the wrong burial space, unless the interested parties have agreed otherwise in writing, the cemetery must disinter the burial container wrongfully interred, identify the burial container, and re-inter it in the proper burial space. The cemetery must give reasonable advance notice to the person legally entitled to control the remains and, if requested, the owner of the burial space. The cemetery must permit the person legally entitled to control the remains and, if requested, the owner of the burial space to witness the disinterment and re-interment. The cemetery must bear all

costs of the disinterment and re-interment.

Ch. 48, adding Minn. Stat. §§ 306.155, 307.115, and 1st spec. sess., ch. 23, §§ 1, 2, effective May 16, 2003 (1st spec. sess., ch. 21, art. 10, § 11)

City Exercise of County Hospital and Nursing Home Powers

A county that does not have a county hospital may authorize a city to exercise the powers of the county hospital law. A county that does not have a county nursing home may authorize a city to exercise the powers of the county nursing home law. This includes the power to impose a property tax levy, but this levy could only be imposed on property in the city, not the rest of the county.

Ch. 127, art. 12, §§ 11, 13, amending Minn. Stat. §§ 376.009, 376.55 by adding subd. 7, effective May 26, 2003

Guaranteed Energy Savings Contracts

The maximum length of a guaranteed energy savings contract allowed under the Uniform Municipal Contracting Law is now 15 years. Under prior law, it was ten years.

A "guaranteed energy savings contract" is a contract for the evaluation and recommendation of energy conservation measures, and for implementation of one or more measures. The cost of the evaluation and measures may be paid over time and tied to the energy cost savings. Contracts of this nature have been allowed in some form since 1983. School districts may enter into 15-year guaranteed energy savings contracts under Minnesota Statutes, section 123B.65. (The state was able to enter into 15-year contracts under section 16C.14, but a new law enacted in 2003 allows only ten-year contracts. *See* 1st spec. sess., ch. 8, art. 1, § 9.)

Ch. 10, amending Minn. Stat. § 471.345, subd. 13, effective May 31, 2003

Local Pest Control

Any city, county, or town may establish and fund a program to control pests. The local government may levy taxes to pay for the program. It is a misdemeanor to obstruct county authorities in carrying out the local pest control program. Under the new chapter 18G, a "pest" is any living agent capable of reproducing itself that causes or may potentially cause harm to plants or other biotic organisms.

Ch. 128, art. 4, § 12, adding Minn. Stat. § 18G.13, effective July 1, 2003

Mosquito Abatement

A governmental unit may engage in mosquito abatement program if 5 percent of property owners (or 250 owners) petition and voters elect to establish the program. Procedures are spelled out

for discontinuing a program. The law also details the duties of the commissioner of agriculture and provisions for paying for the program. Many of these provisions are similar to prior law.

Ch. 128, art. 4, § 13, adding Minn. Stat. § 18G.14, effective July 1, 2003

Eminent Domain

Definition. The definition of "displaced person" (a person who moves as a result of acquisition undertaken by an acquiring authority or a result of voluntary rehabilitation carried out pursuant to, or because of, acquisition) is replaced by reference to the federal law definition. Key concepts from one section of federal law included in the references are that a person is displaced if (1) the person moves as a direct result of a written notice of intent to acquire or the acquisition of real property, or (2) the person is a residential tenant or conducts a farm, a small business, or any business conducted for a lawful purpose. "Displaced person" does not include (1) someone unlawfully occupying the dwelling or occupying it for purposes of obtaining relocation assistance, or (2) someone renting for a short period subject to termination when the property is taken.

Ch. 117, amending Minn. Stat. § 117.50, subd. 3, effective August 1, 2003

Appraisals for highway acquisitions. An acquiring authority must obtain at least one appraisal, conferring with the owner if reasonably possible. The acquiring authority must give the appraisal to the owner at least 20 days before submitting the eminent domain petition to the courts. Once the appraisal is given to the owner, it becomes public data. The owner may obtain an independent appraisal, and be reimbursed for its costs up to $1,500. To be reimbursed, the owner must give the government agency the information necessary for reimbursement within 60 days of receiving the agency's appraisal. An acquiring authority must negotiate in good faith for direct purchase before using eminent domain.

1st spec. sess., ch. 19, art. 2, §§ 1, 3, 4, amending Minn. Stat. §§ 13.44, subd. 3, 117.232, subd. 1, adding Minn. Stat. § 117.036, effective June 9, 2003

State Funding and Regulation

Conceal-carry Gun Permits

The 2003 Legislature established a "shall issue" policy for permits to carry a pistol in public. Essentially, it reverses the presumption on the issuance of permits to carry a pistol. Under prior law, a person had to demonstrate "an occupation or personal

safety hazard" that required a permit. Issuance of a permit was discretionary and a permit could have been limited in its scope. Under the new law, a sheriff is required to issue a permit to a person unless the person is disqualified under specific, listed factors.

A permit must be issued if a person has training in the safe use of a pistol, is at least 21, is a citizen or permanent resident of the United States, completes a permit application, is not otherwise prohibited from possessing a firearm under law, and is not listed in the criminal gang investigative data system. A permit is a statewide permit. A sheriff may contract with a police chief to issue permits.

Both new and existing law preempt local ordinances restricting permit holders from carrying concealed weapons in any particular location. (*See* Minn. Stat. §§ 471.633, 624.717.)

Ch. 28, art. 2, amending Minn. Stat. §§ 13.871, subd. 9; 609.66, subd. 1d; 624.712, by adding subd. 11; 624.714; adding Minn. Stat. §§ 624.7142 and 624.7143; effective May 28, 2003

Regulatory Relief for Local Governments

The 1999 Legislature passed a temporary law creating a process for a city or county to petition a state agency for the amendment or repeal of a rule, including a hearing process with an administrative law judge if the agency does not agree with the petition. The law originally expired in 2001, but was extended to 2006 by the 2000 Legislature. The 2003 Legislature struck the expiration date, making the law permanent.

1st spec. sess., ch. 1, art. 2, § 29, amending Minn. Stat. § 14.091, effective July 1, 2003

Compensation Limits

Hospitals, clinics, or health maintenance organizations owned by a governmental unit are excluded from the law limiting political subdivision employee compensation to 95 percent of the governor's salary.

Failure of the Legislative Coordinating Commission to make a recommendation on a waiver within 30 days is deemed no recommendation, rather than a positive recommendation.

1st spec. sess., ch. 1, art. 2, § 60, amending Minn. Stat. § 43A.17, subd. 9, effective July 1, 2003

Volunteer Firefighter Relief Associations

The state auditor may specify and issue procedures, forms, or mathematical tables for a volunteer firefighter relief association to use in calculating the accrued liability of deferred members.

Under prior law, the firefighter relief association determined the accrued liability for deferred members using the statutory tables, the same as for active members. A "deferred" member is a former firefighter who served for the required time to receive a pension but is not yet drawing on the pension.

1st spec. sess., ch. 1, art. 2, § 62, amending Minn. Stat. § 69.772, subd. 2, effective July 1, 2003

Waste Management Fees

Political subdivisions must file with the director of environmental assistance an annual report on revenue collected from waste management fees.

1st spec. sess., ch. 1, art. 2, § 63, amending Minn. Stat. § 115A.929, effective July 1, 2003

Enhanced 911 Service Costs, Fees

At least ten cents per month of the enhanced 911 fee must be distributed for funding public safety answering points and local 911 expenditures.

1st spec. sess., ch. 1, art. 2, § 109, amending Minn. Stat. § 403.113, effective July 1, 2003

911 Administration

The responsibilities of providing 911 emergency telecommunication services are transferred from the Department of Administration to the Department of Public Safety. The transfer must be completed by the first Monday in January 2004.

1st spec. sess., ch. 1, art. 2, § 125, effective July 1, 2003

Public Safety Radio Communication System

Along with transfer of the 911 services to the Department of Public Safety, overall responsibility for administration and implementation of the public safety radio communication system, sometimes referred to as the 800MHz system, is shifted from the commissioner of administration and the metropolitan radio board to the commissioner of public safety and the public safety radio communication system planning committee. The Metropolitan Council is still the governmental body that will issue the bonds for the system.

Bonding. The public safety radio communication system planning committee, rather than the metropolitan radio board, will request the issuance of revenue bonds by the Metropolitan Council for the public safety radio communications system. In addition to purposes in current law, bond proceeds may be used to provide money for extension of the backbone of the system to serve the southeast and central districts of the State Patrol (phase three), and if sufficient funds are available, to reimburse local

government for amounts spent for capital improvements to the first phase system.

Up to $18 million (instead of $12 million) in bonds may be issued to pay up to 50 percent (instead of 30 percent) of the cost to local government units of building public safety radio subsystems. The bonds may be used to make improvements to an existing 800 MHz radio system that will interoperate with the regionwide system. Additionally, the Metropolitan Council may issue up to $27 million in bonds for phase three of the public safety radio communication system. The metropolitan radio board may advance money from its operating appropriation to pay for design and preliminary engineering for phase three.

Funding increase. Effective July 1, 2004, the amount of the appropriation is up to 13 cents per month of the fee on customer access phone lines or other basic access service. The commissioner of public safety must contract with the commissioner of transportation for phases three to six of the statewide public communication radio system. The commissioner of transportation must contract for materials and services for phases three to six.

Operating costs for phases three to six of the public safety radio communication system must be allocated among users in accordance with a plan developed by the planning committee.

Planning committee. A representative of the League of Minnesota Cities from greater Minnesota is added to the public safety radio communication system planning committee.

1st spec. sess., ch. 1, art. 2, §§ 113 to 119, amending Minn. Stat. §§ 473.891, subd. 10, adding subd. 11; 473.898, subds. 1, 3; 473.901; 473.902, adding subd. 6; 473.907, subd. 1, effective July 1, 2003; 1st spec. sess., ch. 21, art. 4, § 11, amending 1st spec. sess., ch. 1, art. 2, § 118, subd. 6, effective June 9, 2003. See also, ch. 127, art. 12, § 21, amending Minn. Stat. § 473.898, subd. 3, effective May 26, 2003 (1st spec. sess., ch. 21, art. 10, § 11)

Note: The Revisor of Statutes is also directed to renumber these sections of statute and move the public safety radio system laws from chapter 473 to 403. See 1st spec. sess., ch. 1, art. 2, § 135, effective July 1, 2003

Official Newspaper Designation, Exception

A local public corporation may designate any newspaper as its official newspaper, whether or not it has offices in the jurisdiction, if:

- it is a qualified medium of official and legal publications;

- the publisher swears that circulation reaches not fewer than 75 percent of the households in the jurisdiction;
- the newspaper has provided regular coverage of the local governing body's proceedings and will continue to do so; and
- the governing body votes unanimously to designate the newspaper.

If circulation drops below 75 percent, the designation terminates.

"Local public corporation" means a county, home rule charter or statutory city, town, school district, or any other local political subdivision or local or area district, commission, board, or authority.

Ch. 59, amending Minn. Stat. § 331A.04, by adding subd. 6, effective August 1, 2003

Web Publications: Alternative Media for Official Publications

Study. Local government representatives must meet with newspaper representatives and report to the legislature by January 15, 2004, on alternative means of meeting publication requirements.

1st spec. sess., ch. 1, art. 2, § 131, effective July 1, 2003

Transportation projects. Local governments may publish transportation projects on their website instead of in the official newspaper. The local government must publish in its official newspaper information about its designation of its website as the official publication site for transportation projects. The web publication must be made in substantially the same form and for the same time period as it would be in a newspaper. The local government must ensure a permanent record of publication is maintained.

1st spec. sess., ch. 19, art. 2, § 56, adding Minn. Stat. § 331A.12, effective June 9, 2003

Pay Equity Reporting

Political subdivision pay equity reports are not required for 2003 and 2004. Beginning in 2005, a political subdivision must report no more frequently than once every five years. (Rules for the program have required reporting on three-year cycles.)

1st spec. sess., ch. 1, art. 2, § 112, amending Minn. Stat. § 471.999, effective July 1, 2003

Report on Legal Services Expenditures Requirement Repealed

Local governments no longer have to report each year to the state auditor report on local government expenditures for legal services.

1st spec. sess., ch. 1, art. 2, § 136, para. (a), repealing Minn. Stat. § 6.77, effective July 1, 2003

Vapor Recovery Systems in the Metropolitan Area

Equipment to recover hydrocarbons emitted during the transfer of gasoline from a delivery vehicle to an underground storage tank in the metropolitan area must be used. Retail gasoline distribution locations in the metropolitan area and transport vehicles may be reimbursed up to 90 percent for reasonable costs incurred to retrofit to comply with these requirements. The law establishes penalties for failure to install, maintain, or use this equipment. The law also preempts any state agency or local government from adopting rules or ordinances establishing or requiring vapor recovery for underground storage tanks.

Ch. 128, art. 1, §§ 134, 138 to 145, amending Minn. Stat. §§ 115C.09, by adding subd. 3j; 116.073, subds. 1, 2; 116.46, by adding subds. 7a, 7b, 9; 116.49, by adding subds. 3, 4; 116.50; effective July 1, 2003

Building Code

Municipalities having any agreement (not necessarily a contractual agreement) with the state to administer the building code for public buildings and state-licensed facilities, must charge their customary fees. The state is not required to enter into a contract with certain municipalities for this service.

The commissioner of administration may direct the state building official to assist a community that has been affected by a natural disaster with building evaluation and other building code activities.

1st spec. sess., ch. 8, art. 1, § 5, amending Minn. Stat. § 16B.61, subd. 1a, effective August 1, 2003

Contractor Bonds

A contractor working in gas, heating, ventilation, cooling, air conditioning, fuel burning, or refrigeration must pay to the state a $25,000 bond, which is in lieu of all other bonds paid to local governments.

1st spec. sess., ch. 1, art. 2, § 83, adding Minn. Stat. § 326.992, effective July 1, 2003

Landscape Irrigation Systems

An automatically operated landscape irrigation system must have a means of automatically inhibiting or stopping operation of the system during periods of sufficient moisture. The technology must be adjustable either by the end user or the professional practitioner of landscape irrigation services.

Ch. 44, adding Minn. Stat. § 103G.298, effective July 1, 2003, for all landscape irrigation systems installed after that date

Municipal Wastewater Treatment, Phosphorus Reduction

The state goal for reducing phosphorus from noningested sources entering municipal wastewater treatment systems is at least 50 percent. The Pollution Control Agency must study this issue and how to best assist local units of government in removing phosphorus at public treatment plants and report to the legislature by February 1, 2004.

Ch. 128, art. 1 § 122, adding Minn. Stat. § 115.42, and ch. 128, art. 1, § 166, effective July 1, 2003

Blue Lights on Emergency Vehicles

Authorized emergency vehicles may display flashing blue lights on the passenger side to the front, in combination with other lights permitted or required on emergency vehicles. "Authorized emergency vehicles" includes fire trucks, police cars, ambulances, rescue squads, and similar vehicles.

Ch. 49, amending Minn. Stat. § 169.64, subd. 4, effective August 1, 2003

Statement of Need and Reasonableness

An agency's statement of need and reasonableness for proposed rules must identify categories of affected persons, such as separate classes of governmental units, who will bear the costs if the rules are adopted and if they are not.

Ch. 3, amending Minn. Stat. § 14.131, effective July 1, 2003, and applies to a rulemaking proceeding for which the notice of intent to adopt rules is published in the State Register on or after July 1, 2003

Regional Libraries Maintenance of Effort

For two years only, cities and counties have to provide 90 percent (instead of 100 percent) of the previous year's financial support for libraries in order to qualify for regional basic system support grants.

1st spec. sess., ch. 9, art. 6, § 1, amending Minn. Stat. § 134.34, subd. 4, effective for grants distributed in 2004 and 2005 only

Municipal Tort Liability

Joint and Several Liability The new law:

(1) eliminates the separate fault limit for government defendants;

(2) imposes joint and several liability for the whole award on (a) two or more persons who act in a common scheme or plan that causes injury, or (b) a person who commits an intentional (as opposed to negligent) tort; and

(3) changes from 15 percent to greater than 50 percent the threshold for making all other tort defendants jointly or severally liable for the whole award. A defendant who is responsible for 50 percent or less of the fault in a case would be liable only for the percentage of the plaintiff's damages that is equal to the defendant's percentage of fault. (As an example, Private Defendant/City Defendant A is 15 percent at fault; Defendant B is 80 percent at fault and bankrupt. Private Defendant/City Defendant A would pay 15 percent of plaintiff's damages. Plaintiff would not recover the other 85 percent.)

Under prior law, if a private defendant were 15 percent or less at fault, the defendant could be required to pay the portion of the plaintiff's damages that was up to four times the defendant's percentage of fault. (Example: Defendant A is 15 percent at fault; Defendant B is 80 percent at fault and bankrupt; Defendant A has to pay up to 60 percent of plaintiff's damages. Plaintiff would not recover the other 40 percent.) Under prior law, if the state or a local government unit were less than 35 percent at fault, it would pay a part of the plaintiff's damages not greater than twice the government's percentage of fault. (Using the first example above: City A is 15 percent at fault; Citizen B is 80 percent at fault and bankrupt; City pays up to 30 percent of plaintiff's damages.)

Provisions not changed by the act include:

(1) A plaintiff may recover only against a defendant who is more at fault than the plaintiff;

(2) If one defendant cannot pay damages, those damages are reallocated between the plaintiff and other defendant(s);

(3) The fault of parties involved in an incident who are not parties to the lawsuit must be included in the calculation; and

(4) The rule in environmental torts remains the same, where a defendant is not protected by this limit on liability but is always jointly liable for all the plaintiff's damages.

Ch. 71, amending Minn. Stat. § 604.02, subd. 1, effective for claims arising from events that occur on or after August 1, 2003

Elections

Town Elections

For election provisions specific to towns, see that section.

Help America Vote Act (HAVA)

The Help America Vote Act (HAVA) is the federal law that provides grants to states for election administration purposes. Among other things, the state law establishes procedures for responding to complaints about the administration of HAVA, as required by the federal law.

The new state law also covers complaints against local officials. For complaints against local officials, the secretary of state must give the local official a copy of the complaint within three business days after getting it. The local official has 20 days to reach agreement with the complainant or file a written response with the secretary of state. The secretary of state must provide a hearing. The local official must be notified and given an opportunity to participate. The secretary must issue a final determination and, if necessary, a remedial plan within 90 days. If the secretary misses this deadline, alternative dispute resolution must be provided and completed within 60 days after it starts. Any party in a dispute with a local official may appeal to the district court.

1st spec. sess., ch. 7, § 2, subds. 2, 5, adding Minn. Stat. § 200.04 (part), effective retroactively as provided by federal law, P.L. 107-252

Ballot Questions

A city or town must not (1) submit a ballot question at a general or special election, or (2) accept a petition to submit a ballot question unless all election deadlines can be met, including publication deadlines for required notices. A petition rejected as untimely may be resubmitted when compliance with deadlines is possible.

Ch. 75, amending Minn. Stat. § 205.10, by adding subd. 5, effective August 1, 2003

Tax Increment Financing (TIF)

Special Laws

For specific TIF authority granted to individual local governments, see the section on Special Legislation.

Overview

The 2003 Legislature made mostly minor and technical changes to TIF law. For details on all the changes see the acts and act summaries for chapter 127, article 5, section 43, and article 10, and first special session, chapter 21, article 10. An overview of the more significant changes follows.

District Extensions to Pay Deficits Caused by the 2001 Property Tax Changes

The 2003 Legislature authorized TIF authorities with deficits caused by the 2001 property tax changes to extend the duration of their districts, allowing capturing of increment for longer periods of time to make up the shortfalls.

The 2001 property tax changes reduced the amount of increment for many TIF districts. To make up for the reduced increment, the 2001 Legislature set aside a large grant fund to offset these deficits. However, the 2002 Legislature repealed this fund as part of its first budget-balancing bill. To address this problem, the 2003 Legislature authorized TIF authorities with deficits to extend the duration of their districts. It is generally expected that an extension will be used in conjunction with refinancing of the bonds, extending their maturities to spread the debt service over the longer duration.

Qualifying districts. The term of a district can be extended if:

(1) certification of the district was requested before August 1, 2001;

(2) the district's obligations are qualified—generally bonds or interfund loans that were issued before August 1, 2001 (or

pursuant to a binding contract to issue them, which was in place by July 1, 2001). The authority can elect to treat "pay-as-you-go" obligations as qualifying obligations, but doing so will reduce the maximum permissible extension by one-half, as noted below; and

(3) The district has used all of the other available deficit reduction measures: uncapping the original tax rate; switching fiscal disparities options; or transferring (or pooling) available increment from other districts in the municipality.

Permitted "as of right" extensions. The maximum extension is the lesser of (1) a formula amount based on an estimate of the district's reduction in increment caused by the 2001 property tax changes or (2) four years.

Department of Revenue extensions. If the "as of right" extension is insufficient to pay the qualified obligations, the authority can apply to the commissioner of revenue for an additional extension of up to two years. This was intended to be a "safety valve" allowing districts with large deficits to receive additional relief, as opposed to the legislature passing special laws permitting extensions for individual districts.

Procedures. The municipality (i.e., the city) must approve the extension and must give public notice and hold a hearing before doing so.

Pay-as-you-go agreements. The extension legislation is primarily intended to provide relief in situations where the development authority or municipality is unable to pay its obligations. This is generally not the case with pay-as-you-go (or developer) obligations, which limit the authority's obligation to the amount of available increment. However, the law allows the authority to treat a pay-as-you-go obligation as a qualified obligation. If it does so, the maximum extension is reduced by one-half. Also, application may not be made to the Department of Revenue for an additional extension.

Limits on use of increments. If an authority elects to extend the duration of a district, after approval of the extension it can only use increments from the district to pay pre-existing obligations (i.e., those issued before August 1, 2001). The purpose of this restriction is to prevent the use of increments derived from the extension to fund new costs. During the extension period, increments may only be used to pay qualifying obligations. Thus, a pay-as-you-go obligation cannot be funded during the extension

period, unless the authority has elected to treat it as a qualifying obligation. If increments from multiple districts are pledged to pay the qualifying obligations, then all of these districts (even if their terms have not been extended) are subject to this limit on the use of increments.

1st spec. sess., ch. 21, art. 10, § 8, adding Minn. Stat. § 469.1794, effective June 9, 2003, and applies to districts for which the request for certification was made before August 1, 2001

Statute of Limitations: *Walser*

In response to *Walser Auto Sales, Inc. v. City of Richfield*, 635 N.W. 2d 391 (Minn. App. 2001), the 2003 Legislature established a new statute of limitations on actions challenging the establishment of a new TIF district—for example, actions challenging the but-for findings, the blight findings, and so forth. This period of limitations is the later of 180 days from approval of the TIF plan, or 90 days from the filing of the request for certification.

Ch. 127, art. 10, § 20, amending Minn. Stat. § 469.1771, by adding subd. 7, effective for actions filed after May 26, 2003

Qualified Housing Districts Definition

The 2001 Legislature unintentionally repealed the definition of "qualified housing districts" when the state aid offset was repealed. The 2003 Legislature re-enacted it and in doing so, expanded the type of homeownership projects that qualify: the maximum income was increased from 70 percent to 85 percent of the greater of area or state median income. Status as a qualified housing district allows inclusion in a district of parcels that were in the Green Acres property tax classification and provides an exemption from the market value portion of the but-for test.

Ch. 127, art. 10, § 5, amending Minn. Stat. § 469.174, by adding subd. 29, applies to districts for which the request for certification was made on or after January 1, 2002, and all districts to which the definition of qualified housing districts under Minn. Stat. (2000) § 273.1399, applied

Pooling for Housing

Prior law allowed the authority to increase the pooling percentage by ten percentage points to assist housing that meets standards under the federal low-income housing tax credit. Now an authority also may treat administrative expenses as in-district expenses, if the only expenditures for activities outside of the district are under the qualifying housing provisions. This will, in effect, increase the permitted pooling by up to 10 percent of increments.

1st spec. sess., ch. 21, art. 10, § 5, amending Minn. Stat. § 469.1763, subd. 2, effective for districts for which the request for certification was made after April 30, 1990 (the original effective date for pooling rules)

Qualified Disaster Area Redevelopment Districts

Certain disaster areas may qualify as redevelopment districts. These districts will have an original tax capacity (base value) equal to the land value. To qualify under these rules an area must meet the following three requirements:

(1) 70 percent of the area consisted of parcels occupied by buildings, streets, utilities, and other similar structures before the disaster or emergency;

(2) The area of the district was the subject of a disaster or emergency declaration, under federal or state law, 18 months or less before the request for certification of the district; and

(3) 50 percent or more of buildings suffered substantial damage as a result of the disaster or emergency.

1st spec. sess., ch. 21, art. 10, §§ 3, 4, 7, amending Minn. Stat. §§ 469.174, subd. 10 and adding subd. 10b; 469.177, subd. 1, effective for districts for which the request for certification is made after June 9, 2003

Use of Increments from Pre-1979 Districts

A series of changes in the restrictions on the use of increments from pre-1979 districts will provide some flexibility to authorities with these districts—either to use their increments to generate surplus increments to offset deficits in other districts or to cover their own deficits. (Note: Pre-1979 districts can qualify for duration extensions to offset deficits caused by the 2001 property tax changes.) These changes:

(1) Allow refunding of bonds from the district that extend the maturities of the bonds. This will allow refundings that extend the duration of the districts to the maximum August 1, 2009 deadline, if the district would have been decertified earlier.

(2) Allow use of increments to pay county administrative expenses

(3) Allow use of increments to repay advances made to the city or authority to pay pre-1990 bonds

Ch. 127, art. 10, § 10, amending Minn. Stat. § 469.176, subd. 1c, effective May 26, 2003, and applies to pre-1979 districts

But-For Test

The market value part of the but-for test must now have written documentation, which must include the city's estimate of the two market values (with and without TIF) and the present value of the projected increments. These are the three essential components to the but-for market value finding.

Ch. 127, art. 10, § 7, amending Minn. Stat. § 469.175, subd. 3, effective for determinations made after June 30, 2003

Administrative Expenses

New TIF plans will be required to separately state the amount of administrative expenses that are to be paid with increments, versus other revenues. This is intended to allow better tracking of compliance with the limits on the use of increments to pay administrative costs.

Ch. 127, art. 10, § 6, amending Minn. Stat. § 469.175, subd. 1, applies to districts for which the request for certification was made after July 31, 1979, and is effective for TIF plans and modifications approved after June 30, 2003 (see also ch. 127, art. 10, §§ 8 and 12)

Department of Revenue Approval of Pooling Repealed

The requirement that the commissioner of revenue approve pooling to offset deficits was repealed. This requirement (added as part of the original authority in 1997) was included largely to protect the grant fund. With the repeal of the grant fund (and funding cutbacks for the department), it was no longer considered necessary.

Ch. 127, art. 10, § 16, amending Minn. Stat. § 469.1763, subd. 6, effective January 2, 2002, and thereafter

Pooling Restrictions

The restrictions on pooling and other uses of increment are now limited to "clause (1) increments"—that is, taxes paid by captured tax capacity, not other revenues generated by tax increments, such as interest earnings on increments or repayment of increment financed assistance by developers.

Ch. 127, art. 10, § 14, amending Minn. Stat. § 469.1763, subd. 1, effective for districts for which the request for certification was made after April 30, 1990

Excess Increments

Authorities are annually required to determine the amount of excess increments for each district. Excess increments are defined as the amount of increments collected through the end of the calendar year, minus all of the costs authorized in the TIF plan to be paid with increments (including costs that are expected to be paid in future years). The following adjustments are made:

(1) Any amounts distributed in an earlier year as excess increments to the taxing districts are deducted in making the computations. This prevents double counting of these moneys.

(2) Authorized costs in the TIF plan for the district are reduced by three amounts:

- the portion of the costs paid by nonincrement revenues,
- other revenues dedicated or otherwise required to be used to pay those costs (and that have not already been used to pay those costs and thus are not included in #1), and
- debt service payments on bonds to be made in future years (the statute permits use of excess increments to prepay bonds, if the city chooses).

Ch. 127, art. 10, § 11, amending Minn. Stat. § 469.176, subd. 2, effective after August 1, 2003

Abatement Levies

The limit on economic development abatement levies was doubled. The limit now is the greater of 10 percent of the jurisdiction's regular levy, or $200,000.

Ch. 127, art. 12, § 19, amending Minn. Stat. § 469.1813, subd. 8, effective May 26, 2003 (1st spec. sess., ch. 21, art. 10, § 11)

Municipal Bonding

Bond Allocation, Housing Pool

An entitlement issuer may apply to the housing pool when it has issued or returned all of its carryover allocations from *prior* years. Under prior law, an entitlement issuer had to also issue or return the allocation for the *current* year before applying to the housing pool.

Ch. 127, art. 12, § 22; 1st spec. sess., ch. 21, art. 10, § 9, amending Minn. Stat. § 474A.061, subd. 1, effective May 26, 2003 (1st spec. sess., ch. 21, art. 10, § 11)

Street Reconstruction

The 2002 Legislature authorized street reconstruction bonds. The 2003 law clarifies that street reconstruction bonds may be issued for utility replacement and relocation and other costs incidental to street reconstruction, but not widening a street, or adding curbs and gutters.

Ch. 127, art. 12, § 23, amending Minn. Stat. § 475.58, subd. 3b, effective May 26, 2003 (1st spec. sess., ch. 21, art. 10, § 11)

Property Taxes and Aids

Levy Limits

Levy limits are extended for one more year, through taxes payable in 2004, for all counties and cities with a population over 2,500. The starting point for calculating levy limits in pay 2004 is the local government's payable 2003 levy limit, less any unused levy authority, plus 2003 certified aids, before reductions.

The adjustments for household growth, commercial/industrial growth, and inflation are eliminated. The purposes and amounts for which local governments may special levy outside of levy limits remain unchanged except for the following:

- technical adjustments are made for special levies related to the court takeover to reflect the change in funding from HACA to the new court transition aid; and

- a county is now allowed to use the jail operating special

levy for a new regional jail, without adjusting its levy limit base for existing jail operating costs; provided that the new jail is an addition rather than a substitution to existing jail facilities.

Cities and counties are allowed to levy back 60 percent of their 2004 aid and market value credit cuts. The size of the 2004 cut is measured from the 2003 certified amount before reductions. For example, a city whose calendar year (CY) 2004 LGA is $15,000 less than the amount it was certified to receive in LGA in CY 2003, would be allowed to levy back $9,000 (60 percent of the $15,000 reduction that occurs in 2004).

Local governments may seek an increase in their levy limit authority via referendum until the first Tuesday in November (extended from September 1) and have it be effective for that levy year. Referendum levies passed after proposed truth-in-taxation levies are adopted in addition to the authorized truth-in-taxation levies.

1st spec. sess., ch. 21, art. 7, §§ 1 to 4, and 6 to 8, amending Minn. Stat. §§ 275.70, subd. 5; 275.71, subds. 2, 4, and 5; 275.72, subd. 3; 275.73, subd 2; and 275.74, subd 3, effective for taxes levied in 2003, payable in 2004

Truth-in-Taxation Notice

Two columns in the truth-in-taxation notice mailed to property owners are eliminated. These columns showed the change in proposed levy due to increases in spending and the change due to other factors, such as reduced state aid, class rate changes, etc. Although local governments have argued for the elimination of these columns in the past, elimination of the columns at this time will make it harder for property tax payers to tell how much of a levy change is due to state aid changes and how much is due to spending decisions.

1st spec. sess., ch. 21, art. 4, § 6, amending Minn. Stat. § 275.065, subd. 3 (part); effective for tax notices prepared in 2003 for taxes payable in 2004 and thereafter

Levy in Excess of Levy Limits and the Proposed Truth-in-Taxation Levy

A city or county that is subject to levy limits will now be able to increase its allowable pay 2004 levy via referendum held by the November 2003 general election. Previously, if a local government wanted to increase its levy above its levy limit, it had to hold the referendum by September 1 in the year prior to the year in which the levy would be spread. This was necessary so that the local government could meet the September 15 deadline for certifying a proposed levy for Truth-in-Taxation notices. The levy increase due to the levy limit referendum will be allowed in

addition to the proposed levy certified for the TnT notice.

1st spec. sess., ch. 21, art. 4, §§ 6 and 13 (part), amending Minn. Stat. § 275.065, subds. 3 and 3a; effective for tax notices prepared in 2003 for taxes payable in 2004; and art. 7, § 7, amending Minn. Stat. § 275.73, subd. 2; effective for taxes payable in 2004

Property Tax Exemption Clarifications

The tax-exempt status of a number of types of public property was recodified into Minnesota Statutes, chapter 272, which has a list of tax-exempt entities. No substantive changes in the tax-exempt status of these entities were made. The specific property types which were recodified are: property owned or used by the Western Lake Superior Sanitary Board; municipal industrial development unfinished sale or rental projects; skyways, underground tunnels, people mover system, and publicly owned parking structures; municipal recreation facilities; and related facilities owned by water and wastewater treatment providers who have contracted with a municipality to provide capital-intensive public services to the municipality.

Ch. 127, art. 5, §§ 5 to 9, amending Minn. Stat. § 272.02, by adding subds. 58 to 62, effective May 26, 2003

Tax-Forfeited Property; Use Deeds Issued Prior to August 1, 2001

A political subdivision may acquire tax-forfeited property by a "use deed" and use the property for a public purpose. The 2001 Legislature set a three-year limit on how long the political subdivision could hold property it acquired with a use deed before it either had to use the property as described in the use deed or the property was conveyed back to the state. The 2001 law was effective only for use deeds issued on or after August 1, 2001. Beginning August 1, 2006, the three-year limit applies to use deeds issued before August 1, 2001.

Ch. 127, art. 5, §§ 46 and 47, amending Laws 2001, 1st spec. sess., ch. 5, art. 3, §§ 61 and 63, the effective dates; effective August 1, 2006, for use tax deeds issued prior to August 1, 2001

Local Assessors

Local assessors do not have to reside in the state anymore. Local assessors are those working for a city or town, other than a city of the first class.

Ch. 127, art. 5, § 11, amending Minn. Stat. § 273.05, subd. 1, effective May 26, 2003, and applicable to every city and town assessor whether that assessor was appointed before, on, or after the May 26, 2003

Local Boards of Appeal and Equalization

Handbook. The commissioner of revenue must develop a handbook detailing procedure, responsibilities, and requirements for the local boards of appeal and equalization by no later than

January 1, 2005. The handbook must include:

- the role of the local board in the assessment process
- the legal and policy reasons for fair and impartial hearings
- local board meeting procedures that foster fair and impartial assessment reviews and best practices
- quorum requirements and
- explanations of alternate methods of appeal

Course attendance required. By no later than January 1, 2006, and each year thereafter, there must be at least one member at each local board of appeals meeting who has attended an appeals and equalization course developed or approved by the commissioner of revenue within the last four years. The course may be offered in conjunction with a meeting of the League of Minnesota Cities or the Minnesota Association of Townships. A review of the handbook must be included in the course.

Proof of compliance; transfer of duties. Any city or town that does not provide proof to the county assessor by December 1, 2006, and each year thereafter, of compliance with the course attendance requirement (above) and that it had a quorum at each local board of appeal meeting in the prior year, is deemed to have transferred its board of appeal powers to the county for the following year's assessment. The county must notify taxpayers when the board for a city or town has been transferred, and prior to the county board of equalization meeting, shall make available a procedure for reviewing those assessments (e.g., open book meetings). This alternate review process shall take place in April or May. A local board whose powers have been transferred to the county, may be reinstated upon proof of compliance. Resolution and proofs must be provided to the county assessor by December 1 to be effective for the following year's assessment.

Ch. 127, art. 2, § 16, adding Minn. Stat. § 274.014, effective May 26, 2003

Local board authority. The law was clarified that local boards of appeal and equalization do not have the authority to grant an exemption or to order property removed from the tax rolls.

Ch. 127, art. 5, § 22, amending Minn. Stat. § 274.01, subd. 1, effective May 26, 2003

Sales Taxes

Local Sales Taxes

A number of changes relating to local sales taxes were made to conform to the streamlined sales and use tax agreement as recommended by the Streamlined Sales Tax Project (SSTP).

Tax rate. No local jurisdiction may impose a local sales tax at more than one rate. This does not apply to the sale of utilities, motor vehicles, aircraft, watercraft, and manufactured homes. This is not an issue for existing local sales taxes. Lodging, food, and beverage taxes are exempt as "tourism" taxes.

Use of zip code. The imposition of local sales taxes in zip codes that include more than one local jurisdiction is changed. Under prior law, the tax would not apply if the purchaser notified the seller that the delivery address was outside of the taxable jurisdiction. Now deliveries to the entire zip code area must be taxed at the lowest local tax.

Effective date notification. The SSTP's notification requirements regarding changes in local tax rates are adopted. Previously, the local jurisdiction had to notify the commissioner of revenue of the imposition of the tax 90 days before the calendar quarter in which it would go into effect. Now, the commissioner must notify sellers 60 days before the change is effective and catalog sellers, 120 days before the change is effective. By implication the local jurisdiction will have to give the state more than 90 days notice if they want the change for catalog sales and local sales to be effective at the same time.

Ch. 127, art. 1, §§ 28 to 30, amending Minn. Stat. § 297A.99, subds. 5, 10, 12, effective for sales or purchases made on or after January 1, 2004

Tax Incentives

Job Opportunity Building Zones (JOBZ)

Local governments outside of the Twin Cities seven-county metropolitan area may apply to the commissioner of the Department of Trade and Economic Development for one of ten job opportunity building zones. The zones, an initiative of the governor's, are to help revitalize economically distressed rural areas in Minnesota. Zones will be designated in 2003 and tax reductions effective beginning in 2004.

A local government (city, town, county, school district, a joint

powers board, regional development commission, economic development district, or the Iron Range Resources and Rehabilitation Agency) may apply alone or jointly for designation of a zone. The zone must be located, at least partially, in the jurisdiction of each of the applicant governmental units. Zones can be divided into separate, noncontiguous subzones located in one or more local government jurisdictions. All cities, towns, and counties located in a zone must pass resolutions approving the application of the zone. Each local government may apply for only one zone. Applications must be filed by October 15, 2003. Specifics regarding the application process, zone requirements, and evaluation criteria are listed in the act and act summary.

Qualifying businesses in the zones and individuals invested in qualifying zone businesses will be eligible for a number of state and local tax exemptions and tax credits. If an existing Minnesota business relocates to a zone, it must meet expansion criteria related to employment or investment in order to qualify for the tax exemptions and credits. Specifics regarding the tax exemptions and credits, as well as qualifying criteria for relocating businesses, are detailed in the act and act summary.

If a city or county experiences a drop of 3 percent or more in its tax capacity due to the property tax exemption from a JOBZ, it qualifies for additional state aid. The aid amount is equal to the following:

> 0.5 x local units tax rate in 2003 x [JOBZ tax capacity - (0.03 x its 2003 total tax capacity)]

1st spec. sess., ch. 21, art. 1, amending Minn. Stat. §§ 272.02; 272.029; 290.01, subd. 19b and 29; 290.06, subd. 2c; 290.067, subd. 1; 290.0671, subd. 1; 290.091, subd. 2; 290.0921, subd. 3; 290.022, subd. 2 and 3; 297A.68; 297B.03; and adding several new sections to Minn. Stat. ch. 469. Various effective dates.

Note: The Department of Trade and Economic Development is renamed the Department of Employment and Economic Development; 1st spec. sess., ch. 4, effective July 1, 2003

Biotechnology and Health Science Zones

Local governments may apply to the commissioner of the Department of Trade and Economic Development for designation as a biotechnology and health science industry zone. The commissioner may only designate one such zone in the state. Priority will be given to applicants that link a higher education or research institution to the industrial facilities in the zone. The act specifically mentions the University of Minnesota and the Mayo Clinic as institutions with which it would be beneficial for the zone

to link.

A local government (city, town, county, school district, or a joint powers board) may apply alone or jointly for designation of a zone. The zone must be located, at least partially, in the jurisdiction of each of the applicant governmental units. Zones can be divided into separate, noncontiguous subzones located in one or more local government jurisdictions. All cities, towns, and counties located in a zone must pass resolutions approving the application of the zone. Each local government may apply for only one zone. Applications must be filed by October 15, 2003. Specifics regarding the application process, zone requirements, and evaluation criteria are listed in the act and act summary.

Unlike the JOBZ, designation of a zone does not automatically confer all of the allowable tax exemptions or credits on qualifying businesses in the zone. Each business must apply to the commissioner for specific tax incentives. The total amount of tax incentives that the commissioner may award in the zone is limited to $1 million. Only businesses that meet the law's definition of a biotechnology and health science industry facility may apply for the tax incentives. If an existing Minnesota business relocates to a zone, it must meet expansion criteria related to employment or investment in order to apply for the tax incentives. Specifics regarding the tax exemptions and credits, as well as qualifying criteria for relocating businesses are detailed in the act and act summary.

1st spec. sess., ch. 21, art. 2, amending Minn. Stat. §§ 272.02; 290.01, subd. 29; 290.06; 290.0921, subd. 3; 290.022, subd. 3; 297A.68; and adding several new sections to Minn. Stat. ch. 469. Various effective dates

Note: The Department of Trade and Economic Development is renamed the Department of Employment and Economic Development; 1st spec. sess., ch. 4, effective July 1, 2003

Cities

Local Government Aid: City Aid and Market Value Credit Reductions

CY (calendar year) 2003. Local government aid (LGA) market value credit payments to cities are reduced from CY 2003 certified amounts by $142 million. Most of the cut, $122 million, is made from city LGA while $20 million is cut from market value credit payments to cities. The reduction amount and the

mechanism for calculating the reductions to individual cities is basically the reduction proposed by the governor.

Each city's aid and credit is reduced by an amount equal 9.3 percent of its total certified 2003 levy plus aid amount. The reduction for a city is limited as follows:

- the reduction cannot exceed 3.7 percent of its 2000 revenue, as reported to the state auditor, if the city's population is less than 10,000 population or its average annual growth rate in levy plus aid is less than 2 percent for the last three years, and

- the reduction cannot exceed 5.25 percent of its 2000 revenue, as reported to the state auditor, for any other city.

CY 2004. The CY 2004 LGA payment to each city is determined by the new LGA formula and appropriation (see below). However, no city's CY 2004 LGA may exceed its CY 2003 LGA amount after the 2003 reductions are made. A city's CY 2004 market value credit reduction is equal to its CY 2003 market value credit reduction.

The total aid and credit reduction in CY 2004 for a city cannot exceed the following:

- for a city with an adjusted tax capacity per capita of $700 or less, its CY 2004 reduction (compared to its 2003 certified amounts) cannot be more than 13 percent of its 2003 levy plus aid amount; and

- for a city with an adjusted tax capacity per capita of more than $700, its CY 2004 reduction (compared to its 2003 certified amounts) cannot be more than 14 percent of its 2003 levy plus aid amount.

1st spec. sess., ch. 21, art. 5, §§ 11 to 13, effective June 9, 2003

New City LGA Formula

The city LGA program was modified this year and future appropriations for this program were reduced, in conjunction with the city aid cuts. The old formula had been in place for ten years and there was some consensus among policymakers that the formula needed to be updated. The governor originally proposed funding LGA at $352 million in CY 2004 with the amount further reduced to $252 million in CY 2005 unless a new formula was enacted. The final bill adopted a new formula beginning with the aids payable in CY 2004 and the final funding level was $437 million (including transition aid) in CY 2004 and future years. The table on the next page shows the differences between old and new law for various parts of the LGA program.

1st spec. sess., ch. 21, art. 5, §§ 2 to 10, 14, amending Minn. Stat. §§ 477A.011, subds. 34 and 36, adding subdivisions; 477A.013, subds. 8 and 9; 477A.03, subd. 9, adding a subdivision; repealing Minn. Stat. §§ 477A.011, subd. 37; 477A.0132; 477A.03, subds. 3 and 4; 477A.06; 477A.07 effective for aids payable in 2004 and thereafter

City LGA Formula – Old Law vs. New Law

Characteristic	Old Law	New Law
Funding	$608 million in CY 2004 Increases between 2.5%-5.0% annually	$429 million in CY 2004 plus transition aid $437 million in CY 2005 and future years
City aid base (grandfathered aid)	$367 million with about $321 million based on 1993 aid payments	$26.5 million to certain cities based on specific criteria
Transition amount	---	$8 million in CY 2004
City formula aid	$241 million distributed based on a percentage of "need" minus "ability to raise revenue" in CY 2004	$402.5 million distributed based on a percentage of "need" minus "ability to raise revenue" in CY 2004
Large city need per capita measure (New formula with some new factors)	=152.041 + 3.462312 x pre-1940 housing % + 2.093826 x Comm/Ind. % + 6.862552 x pop. decline % + 0.0026 x population	= 355.0547 + 5.0734908 x pre-1940 housing % + 19.141678 x pop. decline % + 2504.06334 x road accident factor – 49.10638 x household size – 35.20915 if in metro area
Small city need per capita measure (Updated coefficients of old formula)	= 1.795919 x pre-1940 housing % + 1.562138 x Comm/Ind. % + 4.177568 x pop. decline % + 1.04013 x transformed pop. – 107.475	= 2.387 x pre-1940 housing % + 2.67591 x Comm/Ind. % + 3.16042 x pop. decline % + 1.206 x transformed pop. – 62.772
Ability to pay measure	Average city tax rate x adjusted city tax capacity (tax base)	Average city tax rate x adjusted city tax capacity (tax base) (Inclusion of taconite aids in ability to raise revenue will be phased in at 25% per year beginning with Pay 2005)
Limits on increases and decreases	No city's aid can increase by more than 10% of its levy from the previous year No city can receive less aid than its city aid base (grandfathered aid) amount	In 2004 no city's LGA can exceed its 2003 LGA after the 2003 reductions. Maximum aid loss (from CY 2003 certified amount) cannot exceed 13% or 14% of each city's revenue base. Beginning in 2005, no city's aid can increase by more than 10% of its levy from the previous year. Beginning in 2005 no large city's aid loss can exceed 10% of its levy in the previous year and no small city's loss in any year can exceed 5% of its certified 2003 LGA.

Repeal of City Aid for New Construction of Low-Income Housing

New construction low-income housing aid is repealed. This aid was based on the value of class 4d properties constructed after 1998. However, beginning with taxes payable in 2004, class 4d no longer exists as a separate class so the aid is now obsolete. Existing low-income housing aid and rental housing tax base replacement aid are also repealed as part of the city LGA reform. (These payments were scheduled to be rolled into city LGA in CY 2004).

Ch. 127, art. 5, § 50, para. (b), repealing Minn. Stat. § 477A.065, effective for aids payable in 2004 and thereafter; 1st spec. sess., ch. 21, art. 5, § 14, repealing Minn. Stat. §§ 477A.06 and 477A.07, effective for aids payable in 2004 and thereafter

Charter Exemption for Aid Loss

A municipality may exceed its municipal charter limit or referendum requirements for levy increases if the increased levy is needed to offset reductions in city LGA. The increased levy may not exceed the amount allowed under the state levy limit provisions.

Ch. 127, art. 2, § 17, adding Minn. Stat. § 275.75, effective for levies payable in 2004 and 2005 only

Border City Zones

Plans. Border city development zone plans may take effect 30 days after they are filed with the Department of Trade and Economic Development (DTED; renamed the Department of Employment and Economic Development under first special session, chapter 4). Under prior law, these plans did not take effect until the next calendar year beginning 90 days after filing of the plan with DTED.

Ch. 127, art. 14, § 12, amending Minn. Stat. § 469.1731, subd. 3, effective May 26, 2003

Additional allocations. $1.5 million is allocated for border city enterprise zone and border city development zone tax reductions. This allocation is divided equally between the two programs ($750,000 to each), but the city can reallocate the amounts between the two programs. The allocation is divided among the qualifying border cities on a per capita basis. The five cities that qualify are Moorhead, Dilworth, East Grand Forks, Breckenridge, and Ortonville.

1st spec. sess., ch. 21, art. 10, § 1, amending Minn. Stat. § 469.169, by adding subd. 16, effective June 9, 2003

City Assessor

A city assessor must not also serve as a mayor or city council member for the same city. This was part of a larger provision relating to county assessors' compatibility of offices.

Ch. 127, art. 5, § 14, amending Minn. Stat. § 273.061, by adding subd. 1c, effective January 2, 2004

Audits

The state auditor must bill cities of the first class monthly for services provided. Previously, the state auditor had discretion on billing.

1st spec. sess., ch. 1, art. 2, § 5, amending Minn. Stat. § 6.49, effective July 1, 2003

Capital Notes for Computer Equipment and Software

Cities may now issue notes to finance computer hardware and original operating system software as long as the software has an expected useful life at least as long as the terms of the notes, which are limited to five years. Authority to issue capital notes for original operating system software expires July 1, 2005. (The same authority was given to counties.)

Ch. 127, art. 12, §§ 15 and 17, amending Minn. Stat. §§ 410.32, 412.301, effective May 26, 2003 (1st spec. sess., ch. 21, art. 10, § 11)

Capital Improvement Program Bonds

A city that establishes a capital improvement program under this new law can issue bonds for capital improvements without an election if approved by a three-fifths (or two-thirds) vote of the city council, subject to reverse referendum. This is similar to authority given to counties on a temporary basis in 1988 and which became permanent law in 2001.

"Capital improvements" means acquisitions or betterments to public lands, buildings or other improvements used as a city hall, public safety, or public works facility. The improvement must have a useful life of five years or more to qualify.

Capital improvements do not include light rail transit or activities related to it, parks, libraries, roads and bridges, administrative buildings (other than a city hall), or lands for those facilities.

If the city opts to exercise this authority it must adopt a capital improvement plan that covers at least a five-year period. The plan must describe the estimated schedule, timing, and details of specific capital improvements for each year covered by the plan. Issuance of the bonds is subject to a reverse referendum upon petition of at least 5 percent of the voters. The city's authority to issue bonds under the capital improvement plan is limited to the

amount of bonds that would require a levy for debt service that does not exceed 0.05367 percent of taxable market value of all property in the city.

Ch. 127, art. 12, § 16, adding Minn. Stat. § 475.521, effective May 26, 2003 (1st spec. sess., ch. 21, art. 10, § 11)

Evictions by City Attorney

Landlord-tenant statutes provide that every residential lease, whether written or not, contains a covenant between the landlord and tenant that neither will allow controlled substances, prostitution, unlawful possession of firearms, or stolen property on the premises. In the event that a tenant breaches this covenant, the tenant forfeits the right to possession of the unit and under current law, the landlord may assign the right to bring an eviction action to the county attorney where the unit is located. Under legislation enacted in 2003, landlords may also assign the right to bring an eviction action to a city attorney where the unit is located.

Ch. 52, § 1, amending Minn. Stat. § 504B.171, subd. 2, effective August 1, 2003

Charging for Emergency Services

The 2003 Legislature updated and clarified a city's authority to use town laws within the city. In addition to updating the language of that statute, the law provides that a city may collect unpaid emergency service charges by placing a lien on the property under the law that towns use, but only if the city adopts an ordinance governing the imposition of charges.

The legislation was prompted by a large fire in May 2001 at Larson Auto Wrecking in Blaine that cost over $107,000 to extinguish. Attorneys representing a city facing that much in unpaid fire service charges did not feel the law was sufficiently clear and recommended clarifying the law.

Ch. 64, amending Minn. Stat. § 415.01, effective August 1, 2003

Building Code

In the past, a city could extend building code enforcement to contiguous unincorporated territory within two miles from the corporate limits. Under this new law, this authority applies only if the code is not in effect in that territory and if the city has permission of the township board. Enforcement of the code in an extended area outside a city's corporate limits includes all rules, laws, and ordinances associated with code administration.

1st spec. sess., ch. 8, art. 1, § 6, amending Minn. Stat. § 16B.62, subd. 1, effective August 1, 2003

Collection of Costs for Repeat Housing Code Violations

A city may collect unpaid special charges for certain housing reinspections in the same way as special assessments (through the property tax collection process). The city may use this collection method if it finds the property still violated the housing maintenance code after the deadline to fix it. This was enacted at the request of the city of St. Paul.

1st spec. sess., ch. 21, art. 11, § 29, amending Minn. Stat. § 429.101, subd. 1, effective June 9, 2003

Liquor Licensing

The omnibus liquor law, chapter 126, made a number of changes, including extending bar hours to 2 a.m. Some of the changes of specific interest to cities include:

City licensing limits. Statutory limits on the number of on-sale intoxicating liquor licenses that a city may issue do not apply to licenses issued to hotels, restaurants, and bowling center.

Ch. 126, § 9, amending Minn. Stat. § 340A.413, subd. 4, effective May 29, 2003

Theaters. Notwithstanding any law, ordinance, or charter provision to the contrary, cities may issue on-sale intoxicating liquor, wine, or beer licenses to a theater within the city, authorizing sales to persons attending events at the theater.

Ch. 126, § 6, amending Minn. Stat. § 340A.404, subd. 1, effective May 29, 2003

For special liquor laws for specific cities, see page 68.

Counties

County Aid and Market Value Credit Reductions

CY 2003. County aid reductions in CY 2003 are based on a percentage of levy plus aid. County reductions are limited to 3.21 percent of certified CY 2003 levy plus aid. County aid reductions apply to HACA, attached machinery aid, criminal justice aid, and family preservation aid. These aids are reduced as necessary in the order listed. Total county aid and credit reductions in CY 2003 equal $64.9 million.

1st spec. sess., ch. 21, art. 6, §§ 9 and 10, effective June 9, 2003

CY 2004. County aid reductions in CY 2004 equal to 5.689

percent of the county's certified CY 2003 levy plus aid. The reduction is limited to the sum of the payable 2004 county program aid amount and the county's market value credit reimbursements. The aid reduction is applied first to the county's program aid amount, and then if necessary to the county's market value credit reimbursements. The county aid program is the new county program that replaces county HACA, criminal justice aid, attached machinery aid, and family preservation aid. Total county aid and credit reductions in CY 2004 equal $125.1 million.

1st spec. sess., ch. 21, art. 6, §§ 9 and 13, effective June 9, 2003

Repeal of Existing County Aid Programs

As part of the governor's reform of general purpose aid programs to local governments, he proposed eliminating county and school attached machinery aid, county HACA, county manufactured home HACA, criminal justice aid, family preservation aid, rental housing replacement aid, and the soon to be effective out-of-home placement aid. The programs were consolidated into the new county program aid (see separate listing). The criticism of the existing programs was that none of them looked at a county's ability to raise revenue (tax base) in determining amount of aid paid. In addition, HACA, which is the largest of the existing county programs, was not based on either county "need" or "revenue raising ability."

Because city and town HACA was eliminated during the 2002 legislative session, only schools continue to get HACA payments.

1st spec. sess., ch. 21, art. 6, §§ 3 and 17, amending Minn. Stat. § 273.1398, subd. 6, and repealing Minn. Stat. §§ 273.138, subd. 2 and the parts of subds. 5 and 7 relating to counties; 273.1398, subds. 2, 2c, and 4d; 273.166; 477A.0121; 477A.0122; 477A.0132; 477A.03, subd. 3; and 477A.07; effective for aids payable in 2004 and thereafter

New County Program Aid

As part of the governor's reform of general purpose aids to local governments, a number of existing county aid programs were eliminated and consolidated into one new county program aid, beginning in CY 2004.

In **CY 2004**, aid is not distributed via a new formula; instead the amount each county receives is determined by the amount each county was certified to receive in CY 2003 under the following programs:

- attached machinery aid
- HACA (after reductions for the portions dedicated to the court and public defender takeovers)
- manufactured home HACA

- criminal justice aid and
- family preservation aid

This amount is reduced as required under the separate CY 2004 county aid reduction provision.

In **CY 2005 and future years**, each county's aid will consist of three components: need aid, tax-base equalization aid, and transition aid. The appropriation for the first two components is set in law and does not change over time. Transition aid is equal to $1.3 million for CY 2005 and is phased out over a three-year period.

County need aid is equal to $100.5 million annually and is allocated to each county based on its share of the state total for the relevant factor. The allocation percentages and factors are:

- 40 percent based on population (with extra weighting for the percentage of the population over age 65)
- 40 percent based on monthly average of households receiving Food Stamps for the previous three years, and
- 20 percent based on the average number of part I crimes for the last three years

County tax base equalization aid is equal to $105 million annually and is allocated to each county based on its tax-base equalization factor relative to the sum of factors for all counties in the state. The tax-base equalization factor is defined as $185 times the county's population minus 9.45 percent of the county's net tax capacity, multiplied by the following weights:

- For counties with a population less than 10,000, the factor is multiplied by 3
- For counties with a population from 10,000 to 12,500, the factor is multiplied by 2
- For counties with a population greater than 500,000, the factor is multiplied by 0.25

Transition aid is paid to counties with an aid loss under the new formula that is greater than 3 percent of tax capacity relative to a pro-rated aid amount based on current law. The amount of transition aid paid in CY 2005 is $1.3 million. A county's transition aid will be reduced by one-third in subsequent years and no transition aid will be paid after CY 2007.

Currently fiscal impact notes are funded from a portion of the HACA appropriation, and a portion of criminal justice aid is allocated to fund public defender programs. The same amounts

will be set aside from the new county program aid to pay for these programs in the future.

1st spec. sess., ch. 21, art. 6, §§ 4 to 8, amending Minn. Stat. §§ 273.1398, subd. 8; 477A.03 by adding subd. 26; and 611.27, subds. 13 and 15; adding Minn. Stat. § 477A.0124; effective for aids payable in 2004 and thereafter

Financing of the State Assumption of Court Costs

Over the last decade, the state has been transferring fiscal responsibility for much of the court administration and public defender costs from counties to the state. In 2002, the state enacted legislation to complete the takeover in the judicial districts where this had not yet occurred—judicial districts one, three, six, and ten. The takeover is scheduled to be completed in CY 2005. Homestead and agricultural credit (HACA) payments to a county were to be reduced in the year in which these cost are assumed by the state in that county. In counties where the takeover will occur in CY 2004 and 2005, some additional HACA was to be paid to offset cost increases that occurred during the transition period.

Beginning in CY 2004, county HACA is eliminated and most of the money is rolled into a new county aid formula (see the description of the aid repeal and the new county aid program). The portions of county HACA earmarked for the court takeover are transferred to a new temporary court aid. There is no impact on county finances from this funding change.

Also, a change was made to correct an error in the court maintenance of effort law requiring counties to spend in excess of the agreed upon amounts.

1st spec. sess., ch. 21, art. 6, §§ 1 and 2, amending Minn. Stat. § 273.1398, subd. 4a, and 4c, effective for aids payable in 2004 and 2005; ch. 127, art. 5, § 18, amending Minn. Stat. § 273.1398, subd. 4b, effective for aids payable in 2004 and thereafter

Levy in Excess of Limits; Penalties

For taxes payable in 2002, several counties erroneously used the special levy for jail operating costs for the first time without a corresponding adjustment to their levy limit base; the result was a levy in excess of the allowed limits. The error was not discovered until after property tax notices had been calculated. The 2002 Legislature enacted a provision that allowed the levy to be spread in 2002, and penalized the counties by reducing their levy authority by the amount of the "excess levy" over the next three years. This penalty provision is repealed effective for taxes payable in 2004. Since levy limits were set to expire after CY 2003, the practical intent of the original language was to reduce

county levies for one year only, by one-third of the excess levy amount. The repeal of the penalty achieves this original intent.

1st spec. sess., ch. 21, art. 7, § 5, amending Minn. Stat. § 275.71, subd. 6, effective for taxes levied in 2003, payable in 2004

Dedication of Park Land

Counties may by ordinance require dedication of some portion of a proposed subdivision for public use as parks, recreational facilities, playgrounds, trails, wetlands, or open space, or to accept cash in lieu of dedication. The law spells out the requirements for a county that decides to adopt a dedication ordinance:

- the county must have a capital improvement program and either a parks and open space plan or a parks and open space component in its comprehensive plan;
- fees must be fair, reasonable, and proportionate to the need;
- cash received must be kept in a special fund and only used to acquire and develop (but not operate or maintain) parks and similar facilities, and the county must report annually to the cities and towns in the county;
- a county must not deny a subdivision request based on an inadequate supply of parks and other facilities in the county;
- a county must not condition approval on waiver of the right to challenge the validity of the fee or dedication;
- subdivisions being redivided and from which previous dedications have been made are exempt, although a county can require dedication or fees proportionate to any net increase in the number of lots;
- a county cannot require dedication of land that is within a city or town that has adopted a dedication requirement;
- a county may share the revenue with a city or town in the county.

Cities and towns have similar authority under Minnesota Statutes, section 462.358, subdivision 2b.

Ch. 95, amending Minn. Stat. § 394.25, subd. 7, effective August 1, 2003

County Assessors

Frequency of assessments. The cycle for appraising real property is lengthened from at least every four years to every five years.

Ch. 127, art. 2, §§ 10 and 11, amending Minn. Stat. §§ 273.01, 273.208, effective for assessments on or after January 2, 2004

Class 1b information. The commissioner of revenue may disclose to county assessors, or their designees, a listing of parcels of property qualifying for class 1b homesteads (homesteads of those who are disabled, blind, or paraplegic veterans).

Ch. 127, art. 2, § 4, amending Minn. Stat. § 270B.12, by adding subd. 13, effective May 26, 2003

Reduced filing requirements. A person filing for class 1b (disabled, blind, or paraplegic veterans homestead classification) with the county assessor no longer has to file annually if there is no change in claimant status. Similarly, a claimant for the special agricultural homestead classification only has to file an abbreviated annual report with the assessor unless the claimant's circumstances change.

Ch. 127, art. 2, §§ 12 and 15, amending Minn. Stat. §§ 273.124, subd. 14, and 273.1315, effective beginning with taxes payable in 2004

Compatible offices. The office of county assessor is compatible with the office of auditor, treasurer, or auditor-treasurer if those offices are appointed positions. A combined assessor-auditor must not serve on the board of appeal and equalization. The county board must not delegate any authority, power, or responsibility under the tax abatement process to the combined office.

An elected county auditor, treasurer, or auditor-treasurer may also serve as the county assessor if the auditor, treasurer, or auditor-treasurer office will be an appointed position within five years. The five-year period covers the time it might take from the referendum to make the auditor, treasurer, or auditor-treasurer an appointed office until the current elected officeholder's term expires.

Incompatible offices. A county assessor must not serve in the listed elected positions: county attorney, county board member, elected auditor, elected treasurer, elected auditor-treasurer, town board supervisor for a town in the same county, or mayor or city

council member for a city in the same county. (Similarly, a city assessor must not also serve as a mayor or city council member for the same city, and a town assessor must not serve as a town board supervisor for the same town.) Except for an elected office that will become appointive, an assessor who accepts an office that is incompatible with the office of assessor is deemed to have resigned from the assessor position on the day of taking the incompatible office.

Finally, a provision requiring the auditor to approve the assessment books prepared by the assessor was repealed as obsolete because most records are now filed electronically with the Department of Revenue.

Ch. 127, art. 5, §§ 12 to 14, 50 para. (a), amending Minn. Stat. § 273.061, by adding subds. 1a, 1b, 1c; repealing Minn. Stat. § 274.04, effective January 2, 2004

Board of Appeals and Equalization

The law was made clear that county boards of appeal and equalization do not have the authority to grant an exemption or to order property removed from the tax rolls.

Ch. 127, art. 5, § 23, amending Minn. Stat. § 274.13, subd. 1, effective May 26, 2003

Mortgage Registry and Deed Taxes

Counties will now be required to remit (1) the state's portion of the mortgage registry tax and the deed tax collected by June 25, and (2) the estimated amounts to be collected during the remainder of the month to the commissioner of revenue two business days before June 30th. This acceleration of the June payment moves money from one state fiscal year into an earlier fiscal year. There is a 10 percent penalty on counties for failing to timely remit their June mortgage registry or deed taxes. The penalty will not be imposed if the amount remitted in June equals either:

- 90 percent of the state's portion of the preceding May's receipts; or
- 90 percent of the average monthly amount of the state's portion for the previous calendar year.

1st spec. sess., ch. 21, art. 9, §§ 4 to 6, amending Minn. Stat. §§ 287.12; 287.29, subd. 1; and 287.31, effective January 1, 2004

Weed Control

At the option of the county, county agricultural inspectors may now take over weed control from the commissioner of agriculture.

Ch. 128, art. 3, §§ 15 to 24, amending Minn. Stat. §§ 18.79, subds. 2, 3, 5, 6, 9,

10; 18.81, subd. 2, 3; 18.84, subd. 3; 18.86, effective July 1, 2003

Solid Waste

Plans. County solid waste plans must be updated every ten years, not five. Rules governing plan content must reflect demographic, geographic, regional, and solid waste system differences among counties.

Ch. 13, amending Minn. Stat. § 115A.46, subd. 1, effective August 1, 2003

Solid waste management tax. The exemption from the solid waste management tax for surcharges, fees, and other charges for county solid waste management services was clarified. Regardless of how the county collects the charges, they are exempt from the solid waste management tax.

Ch. 127, art. 14, § 10, amending Minn. Stat. § 297H.06, subd. 1, effective April 1, 2003

Landfill fee interest earnings. Counties may credit the interest earnings from landfill fees to the county general fund for general use.

Ch. 128, art. 1, § 128, amending Minn. Stat. § 115A.919, subd. 1, effective July 1, 2003

Individual Sewage Treatment Systems (ISTS)

The Pollution Control Agency must study and report to the legislature a ten-year plan on ISTS. The plan, due February 1, 2004, must provide for locating systems that are imminent threats to public health and safety, upgrading systems, overseeing compliance with state rules by July 1, 2005, and funding options to implement the plan. The agency must also designate three counties with waterbodies listed as impaired by fecal coliform bacteria for a pilot project.

Ch. 128, art. 1, §§ 164, 165, effective July 1, 2003

Audits

May hire CPAs. A county board may now employ a certified public accountant to examine its books instead of the state auditor. This is the same authority that cities, towns, and school districts have had for a long time. If an audit is done by a private certified public accountant, the state auditor may require additional information from the private accountant and may make additional examinations. Public accountants and the state auditor must cooperate with regard to county audits, as they must for other political subdivisions. As with other political subdivisions, the state auditor must prescribe minimum procedures and audit scope and public accountants conducting an audit must report evidence pointing to misconduct and may request the state

auditor's assistance.

1st spec. sess., ch. 1, art. 2, §§ 4, 7 to 14, amending Minn. Stat. §§ 6.48; 6.55; 6.64 to 6.68, subd. 1; 6.70; 6.71, effective July 1, 2003

Nursing homes. Similar to the changes described above, a county nursing home board may employ a certified public accountant (CPA) to audit a county nursing home. The CPA's report must be submitted to the state auditor. The state auditor must review the audit report and may accept it or make additional recommendations. This provision for county nursing homes is parallel to a provision in current law for county or municipal hospital boards.

Ch. 53, amending Minn. Stat. § 6.552, effective August 1, 2003

Petition for state auditor exam. Registered voters of a county may petition the state auditor for an examination of county books. This is the same as authority that cities and towns have had.

1st spec. sess., ch. 1, art. 2, § 6, amending Minn. Stat. § 6.54, effective July 1, 2003

Veterans Service Office Grant Program

Counties may become eligible to receive veterans service office grants only on a three-year rotating basis. A county that employs a newly hired veterans service officer who is not yet certified by the commissioner is eligible to receive a grant. Unless there is a newly hired officer, a county whose veterans service officer does not receive certification during a three-year cycle is not eligible to receive a grant during the remainder of that cycle or during the next three-year cycle. The commissioner shall determine the process for awarding grants, including a list of qualifying uses for grant expenditures. The law sets limits on grants. A county no longer has to submit a written plan and receive approval from the commissioner for use of the grant. The commissioner must recover the grant if the county does not use it for an approved purpose.

1st spec. sess., ch. 1, art. 2, § 65, amending Minn. Stat. § 197.608, effective July 1, 2003

Cemetery Violations, Reporting

A county auditor who discovers violations of the cemetery law must report the violations to the county attorney instead of the state auditor.

1st spec. sess., ch. 1, art. 2, §§ 82, 136, para. (a), amending Minn. Stat. § 306.95, repealing Minn. Stat. § 306.97, effective July 1, 2003

The provision that authorized a county with a population of more

Payment for Labor and Equipment Option Repealed

than 400,000 to pay claims for certain labor or equipment costs related to county highways in the specific manner was repealed. This law applied in Hennepin and Ramsey counties.

1st spec. sess., ch. 1, art. 2, § 136, para. (a), repealing Minn. Stat. § 163.10, effective July 1, 2003

Streamlining County Reporting

By September 1, 2003, the Pollution Control Agency, Department of Natural Resources, Office of Environmental Assistance, and Board of Water and Soil Resources must report to legislative committee chairs with jurisdiction over environmental issues on the reporting requirements of those agencies that apply to counties. By January 15, 2004, the same agencies must present a joint report on streamlining and consolidating the reporting requirements. The agencies must consult with the Association of Minnesota Counties and other county representatives.

Ch. 128, art. 1, § 163, effective July 1, 2003

Use of County Facilities for Commercial Wireless Equipment

A county may establish and rent, lease, construct, equip, and maintain a radio broadcasting station or stations, to be used for public safety communications. A county may also acquire land, towers, or equipment for this purpose.

In addition, a county may make its radio towers, building rooftops, lands, and easements available to commercial wireless service providers or other users, for a fee or for other consideration (such as use of private property for county communications equipment). A county does not have to advertise for bids for antenna site use agreements and leases.

Ch. 43, adding Minn. Stat. § 375.87, effective August 1, 2003

Debt for Computer Hardware and Software

Counties may issue debt for acquisition of computer hardware and original operating system software as long as the software has an expected useful life at least as long as the terms of the notes, which are limited to five years. The authorization to issue debt for original operating systems software sunsets July 1, 2005. Cities were given the same authority.

Ch. 127, art. 12, § 8, amending Minn. Stat. § 373.01, subd. 3, effective May 26, 2003 (1st spec. sess., ch. 21, art. 10, § 11)

State Guarantee for County Debt

Under a law enacted in 2000, the state may guarantee payment of county debt. This year the program was expanded to include county lease obligations for jails and law enforcement facilities.

Ch. 127, art. 12, § 9, amending Minn. Stat. § 373.45, subd. 1, effective May 26, 2003 (1st spec. sess., ch. 21, art. 10, § 11)

Public Safety Radio Debt

Any county in the state now may issue bonds to fund public safety radio system infrastructure and equipment. A county may not issue bonds under this section unless approved by the public safety radio system planning committee, created in the 2002 Anti-Terrorism Act.

Under the 2002 Anti-Terrorism Act, 23 counties were given temporary authority to issue bonds for these purposes and under a provision now repealed, 14 of these counties could not incur debt until after July 1, 2003.

Ch. 127, art. 12, § 10, amending Minn. Stat. § 373.47, subd. 1, effective May 26, 2003 (1st spec. sess., ch. 21, art. 10, § 11)

Nursing Homes

Fund transfers. A county may use surplus funds to acquire a nursing home. This authority does not apply to surplus funds in the road and bridge fund, sinking funds, or drainage ditch funds. Prior law permitted these fund transfers for maintenance and expansions, but not acquisition.

Ch. 127, art. 12, § 12, amending Minn. Stat. § 376.55, subd. 3, effective May 26, 2003 (1st spec. sess., ch. 21, art. 10, § 11)

Bonds. County nursing home bonds may be issued for acquisition, as well as improvement of a nursing home.

Ch. 127, art. 12, § 14, amending Minn. Stat. § 376.56, subd. 3, effective May 26, 2003 (1st spec. sess., ch. 21, art. 10, § 11)

Aggregate Tax, "Borrow" Defined

"Borrow" is now defined and means granular borrow, consisting of durable particles of gravel and sand, crushed quarry or mine rock, crushed gravel or stone, or any combination thereof, meeting certain specified requirements.

Borrow was added to the list of "aggregate materials" subject to the aggregate materials tax (i.e., often referred to as the gravel tax) in the 2001 omnibus tax law. However, a definition for borrow was not included in that legislation. A definition is needed for uniformity of taxation by the counties.

Ch. 127, art. 14, § 11, amending Minn. Stat. § 298.75, subd. 1, effective for borrow removed and transported on a public road, street, or highway on or after July 1, 2003

Drainage Authority May Pay Landowner to Remove Bridge or Culvert Instead of Repairing It

If the drainage authority finds that repairs to a private bridge or culvert are more expensive than compensation to landowners for permanent removal of the bridge or culvert, the drainage authority may order an amount of compensation to be paid to all landowners directly benefiting from the bridge or culvert, provided that:

(1) all landowners directly benefiting from the bridge or culvert provide written consent for permanent removal of the bridge or culvert;

(2) all landowners directly benefiting from the bridge or culvert agree in writing to permanently waive any right to repair or reconstruction of the bridge or culvert; and

(3) the compensation and cost of removing the bridge or culvert is less than the cost of repair of the bridge or culvert.

Ch. 84, amending Minn. Stat. § 103E.701, by adding subd. 5a, effective May 24, 2003

County Highways

A county board may appoint a qualified person to serve as county engineer but no longer has to select the person from a list maintained by the state Department of Transportation.

A county may designate a vacated county highway as a county cartway, on which the county could spend money for maintenance or improvement only if the county board determines that such an expenditure is in the public interest.

A county may transfer a county road to another road authority, a federal agency, or an Indian tribe.

1st spec. sess., ch. 19, art. 2, §§ 15 to 17, amending Minn. Stat. §§ 163.07, subd. 2; 163.11, by adding subds. 4a, 9; effective June 9, 2003

Counties as Claimants for Ambulance Services

Counties may submit revenue recapture claims on behalf of licensed ambulance services. Previously, only state and local government agencies could submit revenue recapture claims to recover debts by taking tax refunds. A bill was introduced to allow licensed ambulance services to do this also but the Department of Revenue did not want to see this mechanism opened up to private entities. The compromise was to allow a county to submit a claim on behalf of an ambulance service. A county may charge the ambulance service the cost of administering the claim.

1st spec. sess., ch. 21, art. 11, §§ 7 to 9, amending Minn. Stat. §§ 270A.03, subd. 2; 270.07, subd. 1 and 2; effective July 1, 2003

Towns

Township Market Value Credit Reductions

CY (calendar year) 2003. Each township's CY 2003 market value credit payment is reduced by an amount equal to 2 percent of its certified CY 2003 levy. No township's reduction may exceed the amount of its total credit payment. Market value credits are the only general purpose aid payments made to towns. This is the amount of reduction that was originally proposed by the governor.

CY 2004. Each township's CY 2004 market value credit payment is reduced by an amount equal to 3 percent of its certified CY 2003 levy. No township's reduction may exceed the amount of its total credit payment. Market value credits are the only general purpose aid payments made to towns. This is the amount of reduction that was originally proposed by the governor.

1st spec. sess., ch. 21, art. 6, §§ 11 and 14, effective June 9, 2003

Special Elections

A vacancy on a town board must be filled by a special town election if the town board or appointment committee fails to make an appointment. A special election is called by (1) the supervisors and town clerk, or (2) any two or more of them and 12 town freeholders filing a statement in the town office. The statement must tell why the election is called. A special election may also be called on petition of 20 percent of the town electors as of the last general election. The special election must be conducted like the annual town election.

Ch. 56, amending Minn. Stat. §§ 365.52, subd. 1, and 367.03, subd. 6, effective August 1, 2003

Optional Election of Certain Officers

Minnesota Statutes provide for four different options for structuring town government. Under Option D, the offices of clerk and treasurer may be combined. Under Option B, the office of town clerk, town treasurer, or the combined office of clerk-treasurer may be appointive or elective. This law requires coordinating the ballot question on combining the offices of town clerk and treasurer with the question of making the combined office appointive if both questions are to be presented at the same

election.

If the ballot question will include both Option B (making the clerk and treasurer appointive) and Option D (combining clerk and treasurer), the ballot must state that Option B will take effect only if Option D is also approved. If Option D (combining clerk and treasurer) is adopted, the election of the treasurer at that election is void.

Ch. 60, amending Minn. Stat. §§ 367.30, subds. 2, 4; 367.31, subd. 4; 367.34; 367.36, subd. 1; effective August 1, 2003

Ballot Preparation

Towns will no longer have to hire a lawyer to approve instructions regarding the rotation of the names of candidates on the ballot or the layout of the ballot.

Ch. 76, amending Minn. Stat. § 204D.04, subd. 2, effective August 1, 2003

Township Agreement With a Natural Gas Utility

A township may enter into an agreement with a natural gas utility to provide service within the township. If township land for which the utility has an agreement to serve is annexed, the utility continues to have a nonexclusive right to offer and provide service in the area identified by the agreement. The utility's right to provide service is subject to the annexing city's authority to manage public rights-of-way within the city under Minnesota Statutes, sections 216B.36, 237.162, and 237.163. A municipality still has the right to acquire property of a public utility.

1st spec. sess., ch. 11, art. 3, § 5, adding Minn. Stat. § 216B.361, effective May 30, 2003

Town Road Maintenance

Maintenance is now included in the provisions that spell out how decisions regarding establishment, alteration, or vacation of a town road that lies along the common town line are to be made. In addition, disputes between towns over the establishment, alteration, vacation, or maintenance of a road that lies along the common town line may be resolved by alternative dispute resolution, including mediation, arbitration, or mediation-arbitration, if requested by both towns. Arbitration or mediation-arbitration decisions under this provision are binding.

1st spec. sess., ch. 19, art. 2, § 18, amending Minn. Stat. § 164.12, effective June 9, 2003

Development Authorities and Special Districts

Special Taxing District Market Value Credit Reductions

CY (calendar year) 2003. Each special taxing district's CY 2003 market value credit payment is reduced by an amount equal to 1.5 percent of its certified CY 2003 levy. No district's reduction may exceed the amount of its total credit payment. Market value credits are the only general purpose aid payments made to special taxing districts. This is the amount of reduction that was originally proposed by the governor.

CY 2004. Each special taxing district's CY 2004 market value credit payment is reduced by an amount equal to 3 percent of its certified CY 2003 levy. No district's reduction may exceed the amount of its total credit payment. Market value credits are the only general purpose aid payments made to special taxing districts. This is the amount of reduction that was originally proposed by the governor.

1st spec. sess., ch. 21, art. 6, §§ 12 and 15, effective June 9, 2003

Housing and Redevelopment Authorities (HRAs)

Housing and redevelopment authorities (HRAs) may become members in and enter into or form corporations for the purpose of developing, preserving, and rehabilitating housing projects. These corporations would be subject to the same laws as HRAs, and would be able to sell low-income housing tax credits to raise funds for low-income housing projects.

Ch. 50, amending Minn. Stat. § 469.012, subd. 1, effective May 17, 2003

Lake Improvement Districts

Lake improvement districts (LIDs) are special taxing districts that may undertake projects to improve water quality in a defined geographic area.

LIDs may be established in the following ways: initiation by the county board, initiation by petition of property owners to the county board, initiation by joint county authority established by two or more county boards, or by the commissioner of natural resources (upon disapproval of a petition by a county board).

With the change in law this year, the proportion of property owners' signatures required on petitions to initiate a LID and to request that the county board or joint county authority terminate a LID, is a simple majority (up from 26 percent).

Ch. 91, amending Minn. Stat. §§ 103B.521, subd. 1, and 103B.581, subd. 1,

effective May 24, 2003

Soil and Water Conservation Districts

The 2003 Legislature updated the soil and water conservation policy of the state.

Petition and referendum requirements. The petition and referendum requirements now provide that *resident owners* within a proposed SWCD (soil and water conservation district) sign the petition and that all *eligible voters* within the SWCD may vote in the referendum. This part also clarifies that an authorized referendum will be held in the next general election. The term "resident owner" is used in petitions for establishment of a watershed district under chapter 103D, and is being proposed for SWCDs. The term "land occupier" will continue to be used for eligibility for cost-share grants to implement soil and water conservation practices.

The minimum number of signatures required to initiate the different petitions is changed as follows:

- Establishment: from 25 to 50
- Consolidation or division: from 25 to 100 resident owners, or all of the affected SWCD boards and
- Termination: from 25 to the lesser of 500 or 1 percent of resident owners, or the SWCD board

Supervisor elections. SWCDs, with the approval of the Board of Water and Soil Resources, now have discretion whether to change from the current at-large election of supervisors to election by district, and whether to increase the number of supervisors to seven in counties with seven county commissioner districts, such as Dakota, Ramsey, and Hennepin.

Administration of official controls. A joint powers agreement is no longer required for the state, county, or city to delegate programs to a SWCD.

Removal of SWCD supervisors. Removal of SWCD supervisors is now the same as other elected county officials.

Other changes. The Board of Water and Soil Resources must service requests from SWCDs to consolidate across county boundaries or other agreed-to reorganizations with local governments, including making grants available within the limits of available funding. The Board of Water and Soil Resources no longer must audit SWCDs, but instead will receive closeout reports as it prescribes. SWCDs must still be audited annually by

either the state auditor or a certified public accountant. The law clarifies that water quality improvement practices are a function of SWCDs and specifies a statutory maximum per diem for SWCD board members of $75 (previously set by the state board).

Ch. 104, amending Minn. Stat. §§ 103A.206; 103C.005; 103C.101, subds. 6, 9, adding subd. 9a; 103C.201, subds. 1, 2, 5, 6, 7, 8; 103C.205; 103C.211; 103C.225, subds. 1, 3, 4, 8; 103C.305, subd. 1; 103C.311, subds. 1, 2; 103C.315, subds. 1, 2, 4, 5; 103C.331, subds. 11, 12, 19, adding subd. 20; 103C.401, subds. 1, 2; 351.14, subd. 5; repealing Minn. Stat. § 103C.301, effective August 1, 2003

Iron Range Resources and Rehabilitation Agency (IRRRA)

Grant of authority. The powers of the commissioner of the IRRRA are expanded to allow the commissioner to apply for, borrow, receive, and expend federal grant and loan money.

Ch. 127, art. 11, § 6, amending Minn. Stat. § 298.2211, subd. 1, effective May 26, 2003

Collection and payment of taconite production tax. Payment of the taconite production tax will remain payable in two installments. One-half of the amount must be paid by February 24 and the remaining amount by August 24. Under the old law, 100 percent of the payment was to be made by February 24, beginning in CY 2004.

Ch. 127, art. 11, § 7, amending Minn. Stat. § 298.27, effective for taxes payable in 2004 and thereafter

Special Legislation

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 appropriation laws.

Aitkin County

Under prior law, money received for or from the operation of the Long Lake Conservation Training Center went into a separate fund, other than the county park fund, that was under the control of the secretary-treasurer of the county park commission. Under this law, the separate fund is under the control of the county. This change was recommended by the state auditor and puts the fund under an elected official's control rather than under an

appointed official's. In addition, the financial records of the center are subject to the state auditor's review whether or not the center receives state appropriations. Previously, the state auditor only had authority to review the records to the extent there were state appropriations.

Ch. 42, amending Laws 1965, ch. 616, § 1, as amended, effective August 1, 2003

Alexandria

See Lakes Area EDA.

Alexandria Township

See Lakes Area EDA.

Anoka County Public Safety Radio Infrastructure

Anoka County was given authority in 2002 to issue up to $12.5 million in capital improvement bonds and notes to finance the cost of designing, constructing, and acquiring public safety radio communication system infrastructure and equipment. The county issued and sold $10.5 million in bonds on November 20, 2002, without first obtaining approval of the Public Safety Radio Planning Committee for its plan and bond issuance, as required under other 2002 legislation. This law validates those bonds.

Ch. 127, art. 12, § 25, effective upon local approval

Beltrami County

Beltrami County may spend up to $5 per capita for tourist, agricultural, and industrial development out of the proceeds of the rental and product sales (e.g., timber sales) from tax-forfeited lands. This special law was enacted for Beltrami County in 1967, with a per capita limit of $0.25. The limit was increased in 1979 to $0.50, and again in 1985 to $1. (Note: Itasca and St. Louis counties have special laws similar to this law for Beltrami County. The legislature has increased the permitted amount to $5 for both of those counties.)

Under general law, Minnesota Statutes, section 282.08(4), the allocation is among timber development, county parks, and recreation areas, and then to county, city or town, and school districts by percentages.

Ch. 127, art. 12, § 24, amending Laws 1967, ch. 558, § 1, subd. 5, as amended, effective May 26, 2003 (1st spec. sess., ch. 21, art. 10, § 11)

Benton County

Under a 1984 special law, aggregate materials that were (1) sold to the state or political subdivisions of the state, or (2) purchased by contractors for use in projects for the state or political subdivisions of the state, were exempt from the Benton County aggregate tax. The 2003 Legislature repealed this 1984 law as to Benton County, if approved by the county. (The 1984 law also applied to Stearns County and is similarly repealed.)

Ch. 127, art. 14, § 16, repealing Laws 1984, ch. 652, § 2, effective as to Benton County upon local approval

Biwabik, Town of White

Biwabik and the Town of White may implement the permanent revenue sharing provisions of their September 2002 orderly annexation agreement.

The orderly annexation agreement between Biwabik and Town of White states that the city and town believe that section 414.0325, subdivision 6, allows the agreement's provisions to override the limitations in section 414.036, but to add certainty, the parties would seek special legislation to specifically permit the arrangement.

Under Minnesota Statutes, section 414.036, an orderly annexation agreement may provide for the city to reimburse the town for lost property tax revenues in payments that are substantially equal and paid over time between two and six years.

Under a law enacted in 2002, "[a]n orderly annexation agreement is a binding contract upon all parties to the agreement and is enforceable in the district court in the county in which the unincorporated property in question is located. The provisions of an orderly annexation agreement are not preempted by any provision of this chapter unless the agreement specifically provides so. If an orderly annexation agreement provides the exclusive procedures by which the unincorporated property identified in the agreement may be annexed to the municipality, the municipality shall not annex that property by any other procedure." Minn. Stat. § 414.0325, subd. 6.

Ch. 119, § 2, effective upon local approval by both the city and the town

Brandon Township

See Central Lakes Region Sanitary District.

Buffalo

The city of Buffalo may issue up to $1.3 million of general obligation bonds for Highway 55 work. The bonds would be outside of the net debt limits and their issuance not subject to referendum approval. The levy to repay the bonds is outside of

any levy limit and the levy is to be ignored in calculating local government aid.

Ch. 127, art. 12, § 26, effective upon local approval

Carlos Township

See Central Lakes Region Sanitary District.

Central Iron Range Sanitary Sewer District

A 75 percent vote is required in order for the board to implement the powers given the board by law. In addition, the limit on the number of connections to the disposal system has been eliminated, a local government may withdraw from the district, and Kinney is now correctly referred to as a city, instead of town.

Ch. 128, art. 9, amending Laws 2002, ch. 382, art. 2, effective upon local approval of each of the local government units

Central Lakes Region Sanitary District

The Central Lakes Region Sanitary District in Douglas County is established to replace an existing joint powers board. It is a public corporation and political subdivision. The district is established for the townships of Carlos, Brandon, La Grand, Leaf Valley, Miltona, and Moe, and authorizes later additions or withdrawals. The law is modeled after other special laws for regional sanitary districts.

Ch. 127, art. 9, effective the day after a fourth township (there are six) completes local approval. For the remaining two townships listed, it is effective as to each upon local approval

Clearwater River Watershed District

The Clearwater River Watershed District may collect outstanding charges for maintenance, repair, operation, and use of sewer systems, sewage treatment systems, and other district facilities for disposing of sewage, industrial waste, or other wastes as prescribed, under the statute that allows watershed districts to collect unpaid charges through the property tax process. (*See* Minn. Stat. § 444.075, subd. 2a, para. (b))

Ch. 83, effective August 1, 2003

Cook County Hospital District

The Cook County Hospital District was authorized by special law in 1989. The 2002 Legislature updated its enabling legislation generally. This year, the legislature further updated it by specifying that the hospital district is a municipal corporation and political subdivision. This gives the hospital district the same status as hospital districts created under general law.

In addition, the hospital district's levy authority will increase (beginning for taxes levied in 2003, payable in 2004) by the lesser of (1) 3 percent per year, or (2) the ratio of the most recent

annual medical care expenditure category of the revised Consumer Price Index, U.S. citywide average. Since creation of the district in 1989, the levy has been set at $300,000.

Ch. 127, art. 2, §§ 21 and 22, amending Laws 1989, ch. 211, § 8, as amended, effective after local approval by the Cook County Hospital District

Dakota County

In CY 2002, counties' HACA payments were reduced when the state assumed the fiscal responsibility for certain mandated court services. Unfortunately, the HACA reduction in Dakota County was too high since the county included costs related to certain psychiatric exams that were not part of the assumed mandated services. The county will get an extra $50,000 in HACA in CY 2003 and $100,000 in county program aid in CY 2004 to compensate for the excess permanent reduction that occurred in CY 2002.

1st spec. sess., ch. 21, art. 6, § 16, effective for aids payable in 2003 and 2004

Duluth

Convention center sales tax exemption. The sales tax exemption for the Duluth Convention Center, enacted in 1995, extended in 1998, and repealed in 2001, was retroactively amended. The amended exemption differs from the original exemption primarily in two respects:

- The restated exemption extends to "equipment" and to "equipping" the facility, while the original exemption was limited to building materials and supplies for constructing improvements. This will expand the exemption to various items of personal property for the facility that did not become improvements to real property.

- The restated exemption includes contractor purchases, while the original exemption was limited to purchases by the governmental unit.

The retroactive amendment makes the Duluth Convention Center exemption consistent with the exemptions provided for Minneapolis Convention Center and the St. Paul Civic Center (now called RiverCentre).

1st spec. sess., ch. 21, art. 8, § 17, effective retroactively for sales made after June 30, 1995, and before July 1, 2001

Great Lakes Aquarium debt service: food and beverage tax, lodging tax. Duluth may use the proceeds from its local food and beverage tax and its lodging tax to pay for $4.9 million in

debt service on bonds for the Great Lakes Aquarium. Previously, this money could only be used to pay off $8 million on capital improvements for the Duluth Convention Center. The change will extend the time in which these local taxes will remain in effect.

1st spec. sess., ch. 21, art. 8, § 11 and 12, amending Laws 1980, ch. 511, §§ 1 and 2; as amended, effective upon local approval

TIF. The city of Duluth and its economic development authority may create an economic development TIF district. The city can approve the district only after entering a development agreement providing for the construction of an aircraft maintenance facility with a minimum square footage of 150,000 and providing for employment of at least 200 employees with average compensation of $30,000 per year. This district would have a duration limit of 25 years of increment (as opposed to eight years under general law). General law limits use of increments from economic development districts to assisting limited types of businesses—manufacturing, warehousing, research and development, telemarketing, and tourism facilities in defined counties. Aircraft maintenance work would likely meet this definition.

Ch. 127, art. 14, § 15, effective after local approval by the city, county, and school district

Garfield

See Lakes Area EDA.

Goodhue County

County tribal casino aid. Although this is a change to general law, the only county affected is Goodhue County. Currently Goodhue County is the only county in the state with a reservation or tribal casino that does not get tribal casino aid payments. This is because prior state law provides for tribal casino aid payments only if the tribe has a tribal tax agreement with the state. The Prairie Island band of the Dakota in Goodhue County does not have a tribal tax agreement. Minnesota's tribal tax agreements provide that all state taxes are collected and, then, the state pays a share of the taxes back to the tribal government under a formula. Under the tribal casino aid program, the state pays to the county in which the casino is located 10 percent of the state's share of taxes collected under the tribal tax agreement. Because the tribal government receives one-half of the taxes collected, the county, in effect, gets 5 percent of these shared taxes.

The change will allow Goodhue County to receive 5 percent of the excise taxes generated by activity on the reservation and

casino. Although tribal businesses (e.g., the casinos, the hotel, marinas, and so forth) do not collect the state sales tax, the state excise taxes apparently are being paid on the reservation. These taxes include the cigarette tax, the alcoholic beverage taxes (non-sales taxes), and motor fuels taxes. These taxes are collected from wholesalers (who are neither tribal businesses nor located on the reservation).

1st spec. sess., ch. 21, art. 9, § 3, amending Minn. Stat. § 270.60, subd. 4, effective for taxes collected after June 30, 2003

Hennepin County

Medical center purchasing. In 2002, for purchases on behalf of the medical center, the ambulatory health center, and other clinics, Hennepin County was exempted from the Uniform Municipal Contracting Law and other purchasing statutes and authorized to make purchases by contracting with a private or public cooperative purchasing organization, if the purchasing organization's purchases, rentals, or leases have been made through a competitive process. The 2003 Legislature added the county's health maintenance organization (HMO) to the provision. In addition, with regard to purchases for goods, materials, supplies, and equipment, and service contracts that are incidental to or included in another contract exempt from the county's purchasing laws, the county board (on behalf of the medical center, ambulatory health center, other clinics, and the HMO) may make the purchases by any means.

The new law also allows the county board to meet in closed session on behalf of the HMO (in addition to the medical center as provided before) to discuss and act on specific products or services that are in direct competition with other providers in order to protect the HMO's competitive position.

Ch. 98, amending Minn. Stat. § 383B.217, subd. 7, effective August 1, 2003

Hopkins

TIF. The city of Hopkins may extend the duration limit of TIF district 2-11 by up to four additional years. In addition, the five-year rule (that activities must be undertaken within five years of certification of the district) is extended to nine years.

Ch. 127, art. 10, § 31; Duration limit extension is effective after local approval by the city, county, and school district, and the remainder is effective upon local approval by the city

Itasca County

Nursing home revenue bonds. Itasca County may issue revenue bonds that are backed by revenues from the nursing home to finance the construction of a 35-bed nursing home to replace an

existing private facility. The construction constitutes "replacement of an existing nursing home without increasing the number of accommodations for residents," which allows bonds to be authorized without an election.

Ch. 127, art. 12, § 28, effective upon local approval

Land exchange. Itasca County may obtain land for highway maintenance facilities by exchange rather than advertising for bids.

1st spec. sess., ch. 19, art. 2, § 73, effective June 9, 2003

Lodging tax. Itasca County may impose the lodging tax that is authorized for towns and cities under Minnesota Statutes, section 469.190. The county lodging tax would apply to all towns and unorganized territory in the county and supersede any existing lodging tax imposed within these areas. It also prohibits any town from imposing a tax in the future. A referendum is not required prior to imposition of a county tax, but it is subject to reverse referendum.

1st spec. sess., ch. 21, art. 8, § 18, effective upon local approval

Kandiyohi County

Kandiyohi County and the city of Willmar may form a county economic development authority (EDA) with the same powers as a city EDA, and the county and the city may enter into a joint powers agreement to jointly exercise any of the powers both possess under EDA statutes. The joint powers entity formed under this section is a special taxing district with the power to levy property taxes up to the EDA levy limit (0.01813 percent of taxable market value), and any levy by the joint powers entity replaces the EDA levies for Kandiyohi County and Willmar.

Ch. 127, art. 12, § 30, effective May 26, 2003 (1st spec. sess., ch. 21, art. 10, § 11)

Koochiching County

Koochiching County may establish a port authority having the powers granted to a city port authority in statute, with the county board exercising the powers of a city council. Any city in the county may participate in the activities of the county port authority under terms agreed to by the county. A city, county, town, or other political subdivision in the county may apply to the federal government to exercise foreign trade zone powers under federal law. General law allows either a port authority or an economic development authority to apply to exercise foreign

trade zone powers.

Ch. 127, art. 12, § 18, adding Minn. Stat. § 469.0772, effective May 26, 2003 (1st spec. sess., ch. 21, art. 10, § 11)

La Grand Township

See Central Lakes Region Sanitary District and Lakes Area EDA.

Lakes Area Economic Development Authority

The Lakes Area Economic Development Authority is established as a political subdivision of the state and its initial members are the cities of Alexandria and Garfield, and the towns of Alexandria and La Grand. The EDA would have most of the statutory powers of a city or county EDA. Any other city or town in Douglas County may join upon resolution of its governing body. A city or town may withdraw from the EDA with a two-year notice.

The legislature granted the same authority in 2002 to the city of Alexandria and the towns of Alexandria, Carlos, and La Grand, but local approval was not completed and the law did not take effect.

Ch. 127, art. 12, §§ 35 to 42, effective after the cities of Alexandria and Garfield, and the towns of Alexandria and La Grand have all completed local approval

Leaf Valley Township

See Central Lakes Region Sanitary District.

Lewis and Clark Rural Water Supply System

The Lewis and Clark Rural Water System may act on behalf of its member local government units in issuing bonds. This will enable the corporation, which was established by 22 local units of governments in the states of Iowa, Minnesota, and South Dakota, to issue bonds that are exempt from federal taxation. An entity generally has this ability only if it is a governmental unit itself (defined by having police powers, eminent domain, or tax powers) or if it is authorized to act on behalf a governmental unit. This entity would qualify under the latter provision. This will reduce the borrowing costs of the entity.

Ch. 127, art. 12, § 27, effective May 26, 2003 (1st spec. sess., ch. 21, art. 10, § 11)

Local Government Information Systems (LOGIS)

Bonds issued by LOGIS after April 1, 2003, are authorized and the 1980 special law authorizing the bonds is validated, even though local approval was never completed.

LOGIS is a joint powers organization established in 1972 by cities and other governmental organizations all located in the suburbs of Minneapolis and St. Paul to share data processing

costs and services. Special law enacted in 1980 authorized LOGIS to issue bonds, subject to local approval. The 1980 law was approved by the LOGIS board of the directors as required, but there is no evidence that the approval was ever filed with the Office of the Secretary of State, a requirement for the approval of special laws under section 654.021, subdivision 3.

LOGIS members include Apple Valley, Bloomington, Brooklyn Center, Champlin, Coon Rapids, Crystal, Dakota County, Eagan, Eden Prairie, Edina, Farmington, Golden Valley, Hutchinson, Lakeville, Maple Grove, Metropolitan Airports Commission, Minnetonka, New Hope, Northwest Community Television, Oak Grove, Plymouth, Ramsey, Richfield, Robbinsdale, Rosemount, St. Louis Park, Shakopee, and White Bear Lake.

Ch. 127, art. 12, § 29, effective May 26, 2003 (1st spec. sess., ch. 21, art. 10, § 11)

Miltona Township

See Central Lakes Region Sanitary District.

Moe Township

See Central Lakes Region Sanitary District.

Minneapolis

Unclassified service. By ordinance, the Minneapolis City Council may establish positions in the unclassified service of the city and provide for terms and conditions of employment for the unclassified positions. The positions established must meet the enumerated criteria and the law would not apply to a department head position appointed under specific authority in the Minneapolis city charter. These positions are largely senior executive level positions and the people in them would work directly with department heads, the mayor, or the city council, and serve at the pleasure of the mayor or the council. As of early 2003, the city had 95 such positions.

Prior law for Minneapolis, enacted in the 1980s, established very specific appointed positions. Rather than seek legislation to make changes in job titles and duties, this law gives the city greater flexibility to define the positions itself.

Ch. 115, effective 90 days after completion of local approval

Community planning and economic development department. Minneapolis may establish a community planning and economic development department with whatever related duties and functions the city decides to transfer from any other city department or office, as well as those of the Minneapolis Community Development Agency (MCDA). The law addresses

various employment issues that arise when creating a new department and abolishing an agency as well.

The city may exercise the powers granted in statute to housing and redevelopment authorities, port authorities, and economic development authorities, and for area redevelopment, city development, municipal industrial development, enterprise zones, and tax increment financing. The city may delegate to the new department these powers, except the power to tax and the power to issue obligations of the city.

The city may dissolve the MCDA of its assets, programs, and obligations, and transfer them to itself. The city will be bound by any associated contractual obligations which previously applied to the MCDA, except that obligations will be secured by the assets pledged by the MCDA and not the full faith and credit and taxing power of the city. The city may pledge revenues, assets, reserves, or other property transferred to the city from the MCDA to the payment of city obligations. The city may pledge its full faith, credit, and taxing power to finance programs and projects undertaken by the new department. The city may deposit money and investments transferred from the MCDA into any city fund or account unless prohibited by law or contract.

Obligations issued to finance activities of the new department must be issued by the city council or by the city's board of estimate and taxation at the request of the city council.

Actions taken under this law are deemed to be within the city's charter.

Ch. 127, art. 12, §§ 31 to 34, effective upon local approval

Moorhead

TIF. The expiration date for the 2002 special law is extended by five years, to 2010. It allows Moorhead to impose a special commercial/industrial (C/I) levy to pay for a TIF district deficit caused by the 2001 property tax changes. In addition, increments from this district may be used to pay administrative expenses as well as pre-existing obligations.

Background information. Under the 2002 special law, the maximum amount of this levy is limited to the reduction in the tax increments resulting from the class rate changes in the 2001 tax bill and the elimination of the state general education levy. Because C/I properties in Moorhead qualify for the border city, state-paid disparity credits, the state pays for the cost of this levy, rather than C/I property owners. The disparity credit pays all of the tax to the extent it exceeds an effective tax rate of 2.3 percent.

Ch. 127, art. 10, § 30, amending Laws 2002, ch. 327, art. 11, § 1, effective upon local approval by the city

New Hope

TIF. The city of New Hope or its economic development authority may create one or more redevelopment or soils condition TIF districts within a specifically described area of the city. The district may not exceed an area of 130 acres and may not include more than 131 parcels. These districts are subject to variations from the rules that apply under general law:

- *Five-year rule.* The rule that limits spending within TIF districts to actions that occur within five years after certification of the district is extended to a period of nine years.

- *Pooling rules.* Special pooling rules are provided for TIF districts that are established in this area. Under general law, 25 percent of increments from a redevelopment district may be spent on activities located outside of the area of the district and administrative expenses count against this limit. For districts in this area, administrative expenses are treated as in-district expenses and the pooling percentage is increased by 15 percentage points (i.e., to 40 percent). Since administrative expenses typically are between 5 percent and 10 percent of increment revenues, this increases the amount available for pooling to between 45 percent and 50 percent of increments.

- *Duration limit.* The duration limit for districts created

- under the special law is 20 years. Under general law, the duration limit is 25 years after the receipt of the first increment.

- *Blight test.* Thirteen specifically identified parcels are deemed to be substandard for the purpose of qualifying the district as a redevelopment district.

The authority to establish TIF districts subject to these provisions expires on December 31, 2013.

1st spec. sess., ch. 21, art. 10, § 10, effective upon local approval by the city and Hennepin County

Newport

The city of Newport may impose a sales tax of up to 4 percent on hotels and motels with 25 or more rooms. If the city also imposes the tourism lodging tax allowed under general law, the combined rate of the two taxes cannot exceed 4 percent. The city must use the tax proceeds to fund economic development and redevelopment in the city, including open space, parks, and trails. The tax is administered in the same manner as the lodging taxes under general law.

Ch. 127, art. 1, § 33, effective upon local approval

Northfield

The city of Northfield, a home rule charter city of the third class, may acquire, establish, and operate a hospital and related medical facilities, at a site outside the city limits. Under general law, home rule charter cities of the third and fourth class only have authority to establish hospitals within city limits.

Ch. 77, effective May 23, 2003

Rock 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 Rock County to make the office an appointed position, subject to a four-fifths vote of the county board and reverse referendum.

Ch. 43, §§ 2 to 6, effective after local approval

Scott County

Scott County is added to the provision that provides for title examiners in smaller counties to be paid on a fee-for-service basis by the person who is presenting the title for action by the examiner. This provision already applies to all counties with populations under 75,000, and Stearns, Dakota, and Olmsted counties. Wright County is also added to this provision. (In

counties with a population over 75,000—except for those listed—the title examiner is a county employee.)

Ch. 54, amending Minn. Stat. § 508.12, subd. 1, effective August 1, 2003

St. Louis County

Elections. An officer or employee in the classified service in St. Louis County who becomes a candidate for a county office in which the officer or employee is then employed may not be removed from the classified service by the act of filing as a candidate. No other county was subject to such a restriction, which dated back to 1941.

Ch. 70, amending Minn. Stat. § 383C.05, effective August 1, 2003

Southern St. Louis County special taxing district, Chris Jenson Nursing Home. A new special taxing district in St. Louis County is established to fund the Chris Jenson Nursing Home. The nursing home is currently a county-owned nursing home, located in the southern part of the county.

A bill was introduced this session to require the county to fund all publicly owned nursing homes on a proportional basis. Currently the Chris Jenson Nursing Home is the only county nursing home, but some felt that it only served clients from the southern portion of the county, while the elderly in the northern portion of the county were served by municipal nursing homes.

The final compromise was to establish the special taxing district. This would allow the taxes used to support the nursing home to be spread only in the geographic area that it primarily serves.

1st spec. sess., ch. 21, art. 4, §§ 7 and 12, amending Minn. Stat. § 275.066, effective upon local approval

St. Paul

RiverCentre. The 1967 law creating the civic center authority was updated in four areas:

- The name of the authority in law is changed from civic center authority to RiverCentre Authority and it now refers to city councilmembers who serve on the authority, to match the term used in the city charter.

- It provides for the city councilmembers who serve on the authority to serve four-year terms instead of two-year terms and provides for the terms to follow the calendar year, the same as for city councilmembers. (The city charter was amended in 1998 to provide that

- councilmembers serve four-year instead of two-year terms on the council, and since a 1980 charter amendment, city elections have been held in November for calendar year terms, instead of the spring.)

- It allows the authority to accept gifts from entities other than individuals and governments by changing "individual" to "person," which under Minnesota Statutes, section 645.44, subdivision 7, is defined to include corporations and other associations.

- It provides for the authority's budget to be submitted to the city in October instead of August.

Ch. 63, amending Laws 1967, ch. 459, § 8, subds. 1, 3, and 4, as amended by Laws 1969, ch. 1138, § 3, effective after local approval

Civil service separation. A 1995 special law for St. Paul is effective retroactively to July 1, 1997, even though the certificates of local approval were not filed with the secretary of state. Actions taken under the 1995 law by the city and the St. Paul school district are validated.

The 1995 law (amending a 1965 law) allowed Independent School District No. 625 (St. Paul) to transfer its personnel and civil service functions and services to its own jurisdiction, subject to local approval by both entities. It required the St. Paul city council and the school board each to adopt a resolution stating that civil service bureau functions would be more efficiently and effectively administered separately in each jurisdiction. Both the city council and school district voted to separate the functions, but failed to file the certificates of approval.

Ch. 80, effective August 1, 2003

Local sales tax. Ten percent of the amount of St. Paul's local sales tax revenues that is not spent on RiverCentre must be spent on the capital and operating costs of city's cultural organizations. Under prior law, up to 60 percent of the total sales tax revenues may go to other projects if the remainder is sufficient to pay debt service for the St. Paul RiverCentre. Of the portion not going to the RiverCentre, the law allowed up to 10 percent to fund operating costs of cultural organizations. Now these amounts must go to cultural organizations, and in

addition the money may be used for capital costs.

1st spec. sess., ch. 21, art. 8, § 13, amending Laws 1993, ch. 375, art. 9, § 46, subd. 2; as amended, effective upon local approval

Stearns County

Under a 1984 special law, aggregate materials that were (1) sold to the state or political subdivisions of the state, or (2) purchased by contractors for use in projects for the state or political subdivisions of the state, were exempt from the Stearns County aggregate tax. The 2003 Legislature repealed this 1984 law as to Stearns County, if approved by the county. (The 1984 law also applied to Benton County and is similarly repealed.)

Ch. 127, art. 14, § 16, repealing Laws 1984, ch. 652, § 2, effective as to Stearns County upon local approval

Washington County

Property owners in the special well construction area, an area in which the Department of Health has determined that the groundwater is contaminated, must disclose to prospective buyers that their property is within the Baytown special well construction area and subject to the state's special well construction codes, and the results of drinking water tests.

Ch. 128, art. 1, § 170, effective upon local approval and applies to transactions for which purchase agreements are entered into after that date

Willmar

The city of Willmar and Kandiyohi County may form a county economic development authority (EDA) with the same powers as a city EDA, and the county and the city may enter into a joint powers agreement to jointly exercise any of the powers both possess under EDA statutes. The joint powers entity formed under this section is a special taxing district with the power to levy property taxes up to the EDA levy limit (0.01813 percent of taxable market value), and any levy by the joint powers entity replaces the EDA levies for Kandiyohi County and Willmar.

Ch. 127, art. 12, § 30, effective May 26, 2003 (1st spec. sess., ch. 21, art. 10, § 11)

Wright County

Wright County is added to the provision that provides for title examiners in smaller counties to be paid on a fee-for-service basis by the person who is presenting the title for action by the examiner. This provision already applies to all counties with populations under 75,000, and Stearns, Dakota, and Olmsted counties. Scott County is also added to this provision. (In counties with a population over 75,000—except for those listed—the title examiner is a county employee.)

Ch. 54, amending Minn. Stat. § 508.12, subd. 1, effective August 1, 2003

Special Liquor Laws

Blaine. Blaine may issue 15 on-sale intoxicating liquor licenses in addition to the number authorized by law.

Duluth. Duluth may issue an on-sale intoxicating liquor license to the St. Louis County Heritage and Arts Center.

Elko. Elko may issue an on-sale intoxicating liquor license to the Elko Speedway notwithstanding statutory requirements that a licensed premises be compact and contiguous, as long as the premises are within the fenced grandstand area.

Hastings. Hastings may issue three on-sale intoxicating liquor licenses in addition to the number authorized by law.

Maple Grove. Maple Grove may issue 12 on-sale intoxicating liquor licenses in addition to the number authorized by law.

Minneapolis. Minneapolis may issue intoxicating liquor licenses to the Historic Pantages Theatre and the American Swedish Institute. Minneapolis also may issue wine/beer licenses to the Jungle Theater, the Guthrie Lab, and the Southern Theatre.

St. Joseph. St. Joseph may issue three on-sale intoxicating liquor licenses in addition to the number authorized by law.

St. Michael. St. Michael may issue five on-sale intoxicating liquor licenses in addition to the number authorized by law.

St. Paul. St. Paul may issue an on-sale intoxicating liquor license for the Minnesota Centennial Showboat, and on-sale wine licenses to concessionaires at the state fair for sale of Minnesota-produced wine in connection with the sale of food.

Sartell. Sartell may issue five on-sale intoxicating liquor licenses in addition to the number authorized by law.

Stillwater. Stillwater may issue two on-sale intoxicating liquor licenses in addition to the number authorized by law.

Thief River Falls. Thief River Falls may issue one on-sale intoxicating liquor license in addition to the number authorized by law.

Waconia. Waconia may issue three on-sale intoxicating liquor licenses in addition to the number authorized by law.

Woodbury. Woodbury may issue 12 on-sale intoxicating liquor licenses in addition to the number authorized by law.

Ch. 126, § 7, amending Minn. Stat. § 340A.404, subd. 2; ch. 126, §§ 16 to 29, effective May 29, 2003

Metropolitan Government

Metropolitan Council

Transit capital bonding authority. The Metropolitan Council may issue debt up to $45 million for capital expenditures for the council's regional transit master plan and transit capital improvement plan.

Ch. 127, art. 12, § 20, amending Minn. Stat. § 473.39, by adding subd. 1j, effective May 26, 2003 (1st spec. sess., ch. 21, art. 10, § 11)

Public safety radio bonds. Up to $18 million (instead of $12 million) in revenue bonds may be issued to pay up to 50 percent (instead of 30 percent) of the cost to local government units of building public safety radio subsystems. The bonds may be used to make improvements to an existing 800 MHz radio system that will interoperate with the regionwide system and conform to the radio board's technical standards and plan. Additionally, the Metropolitan Council may issue up to $27 million in bonds for phase three of the public safety radio communication system. The metropolitan radio board may advance money from its operating appropriation to pay for design and preliminary engineering for phase three.

See also, the discussion of all the 800MHz changes on page 10. The Metropolitan Council will continue to be the entity to issue the bonds for the system, but administration and implementation of the system will be under the Department of Public Safety.

Ch. 127, art. 12, § 21, amending Minn. Stat. § 473.898, subd. 3, effective May 26, 2003 (1st spec. sess., ch. 21, art. 10, § 11); 1st spec. sess., ch. 1, art. 2, § 116, amending Minn. Stat. § 473.898, subd. 3, effective July 1, 2003; see also 1st spec. sess., ch. 1, art. 2, §§ 102 to 109, 113 to 119, 125, 135.

Note: The metropolitan radio board statutory provisions will be recoded in Minn. Stat. ch. 403, as required by 1st spec. sess., ch. 1, art. 2, § 135.

Levies. The 2003 Legislature reduced the levy limits for the

Metropolitan Council's nondebt service property tax levies for taxes payable in 2004 and thereafter. Previously, the levy limits were calculated by multiplying the previous year's levy limit by an index of the market valuation change for all taxable property in the metropolitan area. Under the new legislation, the levy limits are either reduced from or frozen at the 2003 levy amounts and future increases are tied to the implicit price deflator (IPD) for government expenditures and gross investment for state and local governments calculated by the U.S. Department of Commerce.

RALF levy. The highway right-of-way levy was set at $2,828,379 for taxes payable in 2004 and 2005, a 10 percent decrease from the levy limit for this purpose in 2003. The council's actual levy was the same as the levy limit for 2003 for this purpose. Thereafter, the levy limit increases by the implicit price deflator.

General purpose levy. The general purpose levy limit was set at $10,522,329 for taxes payable in 2004 and in 2005, a 6 percent reduction from the 2003 actual levy amount (which was slightly below the 2003 levy limit). Of this amount, $1,000,000 must be transferred to the livable communities housing account, as under current law. Thereafter, the levy limit increases by the implicit price deflator.

Livable communities levy. The levy limit for the livable communities demonstration account levy was set at $8,259,070 for taxes payable in 2004 and 2005 (plus the $5 million transfer from fiscal disparities as directed in statute), the same as the levy limit for 2003. The council's actual levy was the same as the levy limit for 2003 for this program. Thereafter, the levy limit increases by the implicit price deflator.

1st spec. sess., ch. 21, art. 4, §§ 8 to 10, amending Minn. Stat. §§ 473.167, subd. 3; 473.249, subd. 1; 473.253, subd. 1; effective June 9, 2003

Jurisdiction. Rockford, primarily located in Wright County, has grown so it is now partially in Hennepin County. This law excludes it from the area within the jurisdiction of the Metropolitan Council. In the past the cities of New Prague, Northfield, and Hanover were excluded for the same reasons.

Ch. 8, amending Minn. Stat. §§ 473.121, subd. 2; and 473.123, subd. 3c, effective August 1, 2003

Redistricting, appointments. The MC03 redistricting plan was adopted by reference. It is the plan on file with the geographic information services office of the Legislative Coordinating

Commission and published on its website May 14, 2003. The revisor of statutes is directed to prepare and file with the secretary of state a metes and bounds description of the new districts, and the old districts' descriptions in statute are repealed. The governor may make the appointments to the council without following the public meeting requirements when a vacancy occurs within 12 months of a prior appointment for which the public meeting requirements were met. (Although this applies to all appointments, because redistricting requires all new appointments, this allows the governor to reappoint the members he just appointed upon taking office in 2003 without repeating the meetings recently held.)

1st spec. sess., ch. 16, §§ 1, 9 to 12, amending Minn. Stat. § 473.123, subd. 3; repealing Minn. Stat. § 473.123, subd. 3c, effective June 9, 2003

Energy forward pricing mechanisms. The Metropolitan Council may buy and sell energy futures contracts to smooth its energy costs. This does not include electricity. Before exercising this authority, the council must have written policies and procedures and an oversight process in place.

1st spec. sess., ch. 16, § 2, adding Minn. Stat. § 473.1293, effective June 9, 2003

Wastewater charges for industrial users. The Metropolitan Council may charge industrial users directly for their use of regional wastewater treatment services and deduct the charges made from the charges made to local governments.

1st spec. sess., ch. 16, § 8, amending Minn. Stat. § 473.517, by adding subd. 10, effective June 9, 2003

Local comprehensive plans. The council must meet a higher standard in order to require changes to a local comprehensive plan. Under prior law, the council could require a metropolitan area local government to make changes to its comprehensive plan if implementation of the plan would have a substantial impact on or contained a substantial departure from a metropolitan system plan. Now, the council may require changes only if the local plan "is more likely than not" to have such an impact.

1st spec. sess., ch. 16, § 6, amending Minn. Stat. § 473.175, subd. 1, effective June 9, 2003

Cost analysis for regional plans. In addition to other requirements, the council must include in its long-range comprehensive policy plans for transportation, airports, and wastewater treatment, the estimated cost of improvements required to achieve the council's goals for the regional systems and an analysis of the funding sources (state, regional property taxes, and local government charges). Similarly, the regional parks and open space plan must estimate the cost of acquisitions and development of land for the regional system, and an analysis of the funding sources.

1st spec. sess., ch. 16, §§ 4 and 5, amending Minn. Stat. §§ 473.146, subd. 1, 473.147, subd. 1, effective June 9, 2003

Consolidated financial report. The Metropolitan Council no longer has to prepare for the legislature the consolidated financial report or the personnel and ethical practices report covering the council and metropolitan agencies. This report was originally required in 1986 as a way for the legislature to compare the finances of the council and six metropolitan agencies, three of which have since been abolished. The remaining agencies are either subordinate to the council (parks and open space commission) or relatively independent (the metropolitan airports commission and the sports facilities commission) and the legislature no longer needs the consolidated financial report.

1st spec. sess., ch. 16, §§ 3, 11, amending Minn. Stat. § 473.13, subd. 1; repealing Minn. Stat. §§ 473.1623, 473.704, subd. 19; effective June 9, 2003

Council service improvement ("gainsharing") program repealed. The 1998 provision that allowed the council to pay employees for developing cost-saving measures for particular council services, while maintaining quality, was repealed.

1st spec. sess., ch. 16, § 11, repealing Minn. Stat. § 473.1295, effective June 9, 2003

Hubbard Marketplace. The council must not reduce the level of public access to facilities and services at the Hubbard Marketplace transit hub in Robbinsdale, effective until June 30, 2005.

1st spec. sess., ch. 19, art. 2, § 70, effective June 9, 2003

LRT operation RFP. The Metropolitan Council, in consultation with the Department of Administration, must prepare a request for proposals to operate the Hiawatha light rail line. The request

must invite proposals from in-state and out-of-state vendors, including the council's transit operations division. The administration department, in consultation with the finance department and the Hennepin County regional rail authority, must evaluate the proposals. The council must consider the administration department's evaluations in determining whether to issue a contract and to whom. The council, if it decides to use a private vendor, must select the vendor by December 1, 2003. The law that requires all council competitive bidding for transit services to be with the advice and assistance of a project management team that includes representatives of transit unions, private operators, and local government does not apply to the procurement of operating services for LRT.

1st spec. sess., ch. 19, art. 2, § 72, effective June 9, 2003

Southwest transitway rail transit. Until July 1, 2005, the council, the Department of Transportation, and the Hennepin County regional rail authority are prohibited from doing anything or spending any money on a southwest transitway corridor between Minneapolis and Eden Prairie.

1st spec. sess., ch. 19, art. 2, § 74, effective June 9, 2003

Metropolitan Parks and Open Space Commission

Members of the metropolitan parks and open space commission no longer may receive per diem ($50 under prior law). They may still be reimbursed for necessary expenses as approved by the Metropolitan Council.

1st spec. sess., ch. 16, § 7, amending Minn. Stat. § 473.303, subd. 6, effective June 9, 2003

Metropolitan Mosquito Control District

Carver County added to district. The district is expanded to include all of Carver County. In keeping with this, Carver County will now have two members instead of one member on the Metropolitan Mosquito Control Commission. Also, the levy limit for the district was proportionally increased to include that portion of Carver County that was added. Finally, the district and Carver County may enter into an agreement for the district to provide its services to the part of Carver County that was added to the district until the proceeds of the levy from that part of Carver County are available for those services.

Pesticide use. If pesticide application is for mosquito control operations, it may be applied on a human if no practicable or effective alternative method of control exists, the pesticide is among the least toxic available for control of the target pests, and

residents of the area to be treated are notified at least 24 hours before the application. Notice less than 24 hours in advance is allowed for control operations related to human disease.

Entry to property. The commission may enter upon private property, even if the owner objects, to monitor for disease-bearing mosquitoes, ticks, or black gnats, or for control of mosquito species capable of carrying a human disease in the local area of a human disease outbreak, regardless of whether there has been an occurrence of the disease in human beings.

Uniform municipal contracting law. The district must comply with the Uniform Municipal Contracting Law. The commission, no longer can authorize the immediate purchase of materials or supplies costing between $5,000 and $10,000.

Compensation. Mosquito control commission members (all county commissioners) may be reimbursed for expenses (but not required to be as under prior law) but will no longer be able to get per diem. Prior law provided per diem for meetings if the commissioner did not receive it from the county and the commissioner's annual public salary was less than $25,000.

Ch. 127, art. 13, amending Minn. Stat. §§ 18B.07, subd. 2; 473.702; 473.703, subd. 1; 473.704, subd. 17; 473.705; 473.711, subd. 2a (effective for taxes payable in 2004 and after); 473.714, subd. 1; and repealing Minn. Stat. §§ 473.711, subd. 2b, and 473.714, subd. 2, effective May 26, 2003; 1st spec. sess., ch. 21, art. 11, § 5, amending ch. 127, art. 13, § 1

Metropolitan Airports Commission (MAC)

The MAC must allow taxi industry participation in any taxi advisory committee it maintains. The MAC must not prohibit participation of any representative of a qualified taxi owner, taxi company, or taxi association in the committee. Effective until June 30, 2005.

1st spec. sess., ch. 19, art. 2, § 77, effective June 9, 2003, expires June 30, 2005

Vetoed Legislation

Local Fiscal Impact Notes for Proposed Rules

The governor vetoed legislation that would have required the commissioner of finance to prepare a local government fiscal impact and fiscal benefit note for proposed rules, if requested by a resolution of the governing body of a political subdivision. Under the bill, if the initial or yearly net cost of complying with proposed rules was more than $10,000 for any one person or entity, the rules would not have taken effect until approved by law. The governor objected on several grounds: it effectively shifted authority for conducting rulemaking from the executive branch to the legislative branch; the changes would have added delay and cost to the rulemaking process; the $10,000 threshold to trigger legislative review was too low; and finally, that it could vitiate agencies' ability to effectively enact rules because the legislature is only in session for a few months out of the year, it is impractical for the legislature to act on all proposed rules in a timely manner.

Ch. 103 (H.F.624)

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