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44

HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH  
SESSION

HOUSE FILE No. **881**

February 12, 2007

Authored by Hilstrom

The bill was read for the first time and referred to the Committee on Local Government and Metropolitan Affairs

March 8, 2007

Committee Recommendation and Adoption of Report:

To Pass as Amended

Read Second Time

1.1 A bill for an act  
1.2 relating to metropolitan government; modifying the Metropolitan Land Planning  
1.3 Act and related statutes; correcting erroneous, ambiguous, and obsolete  
1.4 references; making miscellaneous technical corrections to statutes; amending  
1.5 Minnesota Statutes 2006, sections 15.99, subdivision 2; 473.175; 473.851;  
1.6 473.852, subdivision 1; 473.854; 473.856; 473.857, subdivision 2; 473.858;  
1.7 473.859, subdivision 1; 473.866; 473.867, subdivisions 1, 2; 473.869; 473.871;  
1.8 repealing Minnesota Statutes 2006, sections 473.1455; 473.868.

1.9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.10 Section 1. Minnesota Statutes 2006, section 15.99, subdivision 2, is amended to read:

1.11 Subd. 2. **Deadline for response.** (a) Except as otherwise provided in this section,  
1.12 section 462.358, subdivision 3b, or 473.175, or chapter 505, and notwithstanding any  
1.13 other law to the contrary, an agency must approve or deny within 60 days a written request  
1.14 relating to zoning, septic systems, watershed district review, soil and water conservation  
1.15 district review, or expansion of the metropolitan urban service area for a permit, license,  
1.16 or other governmental approval of an action. Failure of an agency to deny a request within  
1.17 60 days is approval of the request. If an agency denies the request, it must state in writing  
1.18 the reasons for the denial at the time that it denies the request.

1.19 (b) When a vote on a resolution or properly made motion to approve a request fails  
1.20 for any reason, the failure shall constitute a denial of the request provided that those voting  
1.21 against the motion state on the record the reasons why they oppose the request. A denial  
1.22 of a request because of a failure to approve a resolution or motion does not preclude an  
1.23 immediate submission of a same or similar request.

1.24 (c) Except as provided in paragraph (b), if an agency, other than a multimember  
1.25 governing body, denies the request, it must state in writing the reasons for the denial at the  
1.26 time that it denies the request. If a multimember governing body denies a request, it must

2.1 state the reasons for denial on the record and provide the applicant in writing a statement  
2.2 of the reasons for the denial. If the written statement is not adopted at the same time as  
2.3 the denial, it must be adopted at the next meeting following the denial of the request but  
2.4 before the expiration of the time allowed for making a decision under this section. The  
2.5 written statement must be consistent with the reasons stated in the record at the time of the  
2.6 denial. The written statement must be provided to the applicant upon adoption.

2.7 Sec. 2. Minnesota Statutes 2006, section 473.175, is amended to read:

2.8 **473.175 REVIEW OF COMPREHENSIVE PLANS.**

2.9 Subdivision 1. **For compatibility, conformity.** The council shall review the  
2.10 comprehensive plans of local governmental units, prepared and submitted pursuant  
2.11 to ~~Laws 1976, chapter 127, sections 1 to 23~~ 473.851 to 473.871, to determine their  
2.12 compatibility with each other and conformity with metropolitan system plans. The council  
2.13 shall review and comment on the apparent consistency of the comprehensive plans with  
2.14 adopted plans of the council. The council may require a local governmental unit to  
2.15 modify any comprehensive plan or part thereof if, upon the adoption of findings and a  
2.16 resolution, the council concludes that the plan is more likely than not to have a substantial  
2.17 impact on or contain a substantial departure from metropolitan system plans. A local unit  
2.18 of government may challenge a council action under this subdivision by following the  
2.19 procedures set forth in section 473.866.

2.20 Subd. 2. **120-day limit, hearing.** Within 120 days following receipt of a  
2.21 comprehensive plan of a local governmental unit, unless a time extension is mutually  
2.22 agreed to, the council shall return to the local governmental unit a statement containing  
2.23 its comments and, by resolution, its decision, if any, to require modifications to assure  
2.24 conformance with the metropolitan system plans.

2.25 No action shall be taken by any local governmental unit to place any such  
2.26 comprehensive plan or part thereof into effect until the council has returned the statement  
2.27 to the unit and until the local governmental unit has incorporated any modifications in the  
2.28 plan required by a final decision, order, or judgment made pursuant to section 473.866.  
2.29 ~~Promptly after submission, the council shall notify each city, town, county, or special~~  
2.30 ~~district which may be affected by the plans submitted, of the general nature of the plans,~~  
2.31 ~~the date of submission, and the identity of the submitting unit. Political subdivisions~~  
2.32 ~~contiguous to or within the submitting unit shall be notified in all cases. Within 30 days~~  
2.33 ~~after receipt of such notice any governmental unit or district so notified or the local~~  
2.34 ~~governmental unit submitting the plan may request the council to conduct a hearing at~~  
2.35 ~~which the submitting unit and any other governmental unit or subdivision may present~~

3.1 ~~its views. The council may attempt to mediate and resolve differences of opinion which~~  
 3.2 ~~exist among the participants in the hearing with respect to the plans submitted.~~ If within  
 3.3 120 days, unless a time extension is mutually agreed to, the council fails to complete its  
 3.4 written statement the plans shall be deemed approved and may be placed into effect. Any  
 3.5 amendment to a plan subsequent to the council's review shall be submitted to and acted  
 3.6 upon by the council in the same manner as the original plan. The written statement of the  
 3.7 council shall be filed with the plan of the local government unit at all places where the  
 3.8 plan is required by law to be kept on file.

3.9       Subd. 3. **Enforcement to get conforming plan.** If a local governmental unit fails to  
 3.10 adopt a comprehensive plan in accordance with ~~Laws 1976, chapter 127, sections 1 to 23~~  
 3.11 473.851 to 473.871 or if the council after a public hearing by resolution finds that a plan  
 3.12 substantially departs from metropolitan system plans and that the local governmental unit  
 3.13 has not adopted a plan with modifications required pursuant to section 473.866 within  
 3.14 nine months following a final decision, order, or judgment made pursuant to section  
 3.15 473.866, the council may commence civil proceedings to enforce the provisions of ~~Laws~~  
 3.16 ~~1976, chapter 127, sections 1 to 23~~ 473.851 to 473.871 by appropriate legal action in the  
 3.17 district court where the local governmental unit is located.

3.18       Sec. 3. Minnesota Statutes 2006, section 473.851, is amended to read:

3.19       **473.851 LEGISLATIVE FINDINGS AND PURPOSE.**

3.20       The legislature finds and declares that the local governmental units within the  
 3.21 metropolitan area are interdependent, that the growth and patterns of urbanization within  
 3.22 the area create the need for additional state, metropolitan and local public services and  
 3.23 facilities and increase the danger of air and water pollution and water shortages, and  
 3.24 that developments in one local governmental unit may affect the provision of regional  
 3.25 capital improvements for sewers, transportation, airports, water supply, and regional  
 3.26 recreation open space. Since problems of urbanization and development transcend local  
 3.27 governmental boundaries, there is a need for the adoption of coordinated plans, programs  
 3.28 and controls by all local governmental units in order to protect the health, safety and  
 3.29 welfare of the residents of the metropolitan area and to ensure coordinated, orderly and  
 3.30 economic development. Therefore, it is the purpose of sections 462.355, ~~subdivision~~  
 3.31 ~~4~~, 473.175, and 473.851 to 473.871 to (1) establish requirements and procedures to  
 3.32 accomplish comprehensive local planning with land use controls consistent with planned,  
 3.33 orderly and staged development and the metropolitan system plans, and (2) to provide  
 3.34 assistance to local governmental units within the metropolitan area for the preparation

4.1 of plans and official controls appropriate for their areas and consistent with metropolitan  
4.2 system plans.

4.3 Sec. 4. Minnesota Statutes 2006, section 473.852, subdivision 1, is amended to read:

4.4 Subdivision 1. **Terms.** As used in sections 462.355, ~~subdivision 4~~, 473.175, and  
4.5 473.851 to 473.871, the following terms shall have the meanings given them.

4.6 Sec. 5. Minnesota Statutes 2006, section 473.854, is amended to read:

4.7 **473.854 GUIDELINES.**

4.8 The council shall prepare and adopt guidelines and procedures relating to the  
4.9 requirements and provisions of sections 462.355, ~~subdivision 4~~, 473.175, and 473.851 to  
4.10 473.871 which will provide assistance to local governmental units in accomplishing the  
4.11 provisions of sections 462.355, ~~subdivision 4~~, 473.175, and 473.851 to 473.871.

4.12 Sec. 6. Minnesota Statutes 2006, section 473.856, is amended to read:

4.13 **473.856 METROPOLITAN SYSTEM STATEMENTS; AMENDMENTS.**

4.14 ~~Local governmental units shall consider in their initial comprehensive plans~~  
4.15 ~~submitted to the council any amendments or modifications to metropolitan system plans~~  
4.16 ~~which were made by the council and transmitted prior to January 1, 1978. The council~~  
4.17 shall prepare and transmit to each affected local governmental unit a metropolitan  
4.18 system statement when the council updates or revises its comprehensive development  
4.19 guide for the metropolitan area in conjunction with the decennial review required under  
4.20 section 473.864, subdivision 2, and when the council amends or modifies a metropolitan  
4.21 system plan. The statement shall contain information relating to the unit and appropriate  
4.22 surrounding territory that the council determines necessary for the unit to consider in  
4.23 reviewing the unit's comprehensive plan. The statement may include:

4.24 (1) the timing, character, function, location, projected capacity, and conditions on use  
4.25 for existing or planned metropolitan public facilities, as specified in metropolitan system  
4.26 plans, and for state and federal public facilities to the extent known to the council; and

4.27 (2) the population, employment, and household projections which have been used by  
4.28 the council as a basis for its metropolitan system plans.

4.29 ~~Thereafter,~~ Within nine months after receiving a system statement for an amendment  
4.30 to a metropolitan system plan, and within three years after receiving a system statement  
4.31 issued in conjunction with the decennial review required under section 473.864,  
4.32 subdivision 2, each affected local governmental unit shall review its comprehensive  
4.33 plan to determine if an amendment is necessary to ensure continued conformity with

5.1 metropolitan system plans. If an amendment is necessary, the governmental unit shall  
5.2 prepare the amendment and submit it to the council for review pursuant to sections  
5.3 462.355, ~~subdivision 4~~, 473.175, and 473.851 to 473.871.

5.4 Sec. 7. Minnesota Statutes 2006, section 473.857, subdivision 2, is amended to read:

5.5 Subd. 2. **Within 60 days; report.** A hearing shall be conducted within 60 days after  
5.6 the request, provided that the advisory committee or the administrative law judge shall  
5.7 consolidate hearings on related requests. The 60-day period within which the hearing shall  
5.8 be conducted may be extended or suspended by mutual agreement of the council and the  
5.9 local governmental unit. The hearing shall not consider the need for or reasonableness  
5.10 of the metropolitan system plans or parts thereof. The hearing shall afford all interested  
5.11 persons an opportunity to testify and present evidence. The advisory committee or  
5.12 administrative law judge may employ the appropriate technical and professional services  
5.13 of the office of dispute resolution for the purpose of evaluating disputes of fact. The  
5.14 proceedings shall not be deemed a contested case. Within 30 days after the hearing, the  
5.15 advisory committee or ~~hearing examiner~~ the administrative law judge shall report to the  
5.16 council respecting the proposed amendments to the system statements. The report shall  
5.17 contain findings of fact, conclusions, and recommendations and shall apportion the costs  
5.18 of the proceedings among the parties.

5.19 Sec. 8. Minnesota Statutes 2006, section 473.858, is amended to read:

5.20 **473.858 COMPREHENSIVE PLANS; LOCAL GOVERNMENTAL UNITS.**

5.21 Subdivision 1. **No conflicting zoning, fiscal device, official control.** Within nine  
5.22 months following the receipt of a metropolitan system statement for an amendment to a  
5.23 metropolitan system plan and within three years following the receipt of ~~the~~ a metropolitan  
5.24 system statement issued in conjunction with the decennial review required under section  
5.25 473.864, subdivision 2, every local governmental unit shall have ~~prepared a~~ reviewed  
5.26 and, if necessary, amended its comprehensive plan in accordance with sections 462.355;  
5.27 ~~subdivision 4~~, 473.175, and 473.851 to 473.871 and the applicable planning statute and  
5.28 shall have submitted the plan to the Metropolitan Council for review pursuant to section  
5.29 473.175. The provisions of sections 462.355, ~~subdivision 4~~, 473.175, and 473.851 to  
5.30 473.871 shall supersede the provisions of the applicable planning statute wherever a  
5.31 conflict may exist. If the comprehensive municipal plan is in conflict with the zoning  
5.32 ordinance, the zoning ordinance shall be brought into conformance with the plan by  
5.33 local government units in conjunction with the review and, if necessary, amendment of  
5.34 its comprehensive plan required under section 473.864, subdivision 2. After August 1,

6.1 1995, a local government unit shall not adopt any fiscal device or official control which  
6.2 is in conflict with its comprehensive plan, including any amendments to the plan, or  
6.3 which permits activity in conflict with metropolitan system plans, as defined by section  
6.4 473.852, subdivision 8. The comprehensive plan shall provide guidelines for the timing  
6.5 and sequence of the adoption of official controls to ensure planned, orderly, and staged  
6.6 development and redevelopment consistent with the comprehensive plan. For purposes  
6.7 of this section, a fiscal device or official control shall not be considered to be in conflict  
6.8 with a local government unit's comprehensive plan or to permit an activity in conflict with  
6.9 metropolitan system plans if such fiscal device or official control is adopted to ensure  
6.10 the planned, orderly, and staged development of urbanization or redevelopment areas  
6.11 designated in the comprehensive plan pursuant to section 473.859, subdivision 5.

6.12 Subd. 2. **Adjacent review, comment.** Local governmental units shall submit their  
6.13 proposed plans to adjacent governmental units, affected special districts lying in whole or  
6.14 in part within the metropolitan area, and affected school districts for review and comment  
6.15 at least six months prior to submission of the plan to the council and shall submit copies  
6.16 to them on the submission of the plan to the council. For minor plan amendments, the  
6.17 council may prescribe a shorter review and comment period, or may waive the review and  
6.18 comment period if the minor plan amendments involve lands that are not contiguous to  
6.19 other local governmental units.

6.20 Subd. 3. **When to council.** The plans shall be submitted to the council following  
6.21 approval recommendation by the planning commission agency of the unit and after  
6.22 consideration but before final approval by the governing body of the unit.

6.23 Subd. 4. **Status of old, new programs, plans, controls.** Comprehensive  
6.24 plans, capital improvement programs, sewer policy plans and official controls of local  
6.25 governmental units adopted prior to the requirements of sections 462.355, ~~subdivision 4,~~  
6.26 473.175, and 473.851 to 473.871 shall remain in force and effect until amended, repealed  
6.27 or superseded by plans or controls adopted pursuant to sections 462.355, ~~subdivision 4,~~  
6.28 473.175, and 473.851 to 473.871. Existing comprehensive plans, capital improvement  
6.29 programs, sewer policy plans, and official controls may be amended and new capital  
6.30 improvement programs and official controls may be prepared and adopted prior to  
6.31 the submission to the council of comprehensive plans required by sections 462.355;  
6.32 ~~subdivision 4,~~ 473.175, and 473.851 to 473.871.

6.33 Sec. 9. Minnesota Statutes 2006, section 473.859, subdivision 1, is amended to read:

6.34 Subdivision 1. **Contents.** The comprehensive plan shall contain objectives, policies,  
6.35 standards and programs to guide public and private land use, development, redevelopment

7.1 and preservation for all lands and waters within the jurisdiction of the local governmental  
7.2 unit through 1990 and may extend through any year thereafter which is evenly divisible by  
7.3 five. Each plan shall specify expected industrial and commercial development, planned  
7.4 population distribution, and local public facility capacities upon which the plan is based.  
7.5 Each plan shall contain a discussion of the use of the public facilities specified in the  
7.6 metropolitan system statement and the effect of the plan on adjacent local governmental  
7.7 units and affected school districts. Existing plans and official controls may be used  
7.8 in whole or in part following modification, as necessary, to satisfy the requirements of  
7.9 sections 462.355, ~~subdivision 4~~, 473.175, and 473.851 to 473.871. Each plan may contain  
7.10 an intergovernmental coordination element that describes how its planned land uses and  
7.11 urban services affect other communities, adjacent local government units, the region, and  
7.12 the state, and that includes guidelines for joint planning and decision making with other  
7.13 communities, school districts, and other jurisdictions for siting public schools, building  
7.14 public facilities, and sharing public services.

7.15 Each plan may contain an economic development element that identifies types of  
7.16 mixed use development, expansion facilities for businesses, and methods for developing a  
7.17 balanced and stable economic base.

7.18 The comprehensive plan may contain any additional matter which may be included  
7.19 in a comprehensive plan of the local governmental unit pursuant to the applicable planning  
7.20 statute.

7.21 Sec. 10. Minnesota Statutes 2006, section 473.866, is amended to read:

7.22 **473.866 CONTESTED CASES; ADMINISTRATIVE AND JUDICIAL**  
7.23 **REVIEW.**

7.24 The council's decision to require modification under section 473.175 may be  
7.25 contested by the affected local governmental unit. The unit shall have 60 days within  
7.26 which to request a hearing on the council's decision to require modification. If within 60  
7.27 days the unit has not requested a hearing, the council shall make its final decision with  
7.28 respect to the required modifications. If an affected unit requests a hearing, the request for  
7.29 hearing shall be granted, and the hearing shall be conducted within 60 days by the state  
7.30 Office of Administrative Hearings in the manner provided by chapter 14 for contested  
7.31 cases. The 60-day period within which the hearing shall be conducted may be extended by  
7.32 mutual agreement of the council and the affected local governmental unit. The subject of  
7.33 the hearing shall not extend to questions concerning the need for or reasonableness of the  
7.34 metropolitan system plans or any part thereof. In the report of the administrative law judge  
7.35 the costs of the hearing shall be apportioned among the parties to the proceeding. Within

8.1 30 days after the receipt of the report the council shall, by resolution containing findings  
8.2 of fact and conclusions, make a final decision with respect to the required modifications  
8.3 of the comprehensive plan. Any party to the proceeding aggrieved by the decision of  
8.4 the council may appeal to the court in the manner provided in chapter 14 for contested  
8.5 cases. The record on appeal shall consist of: (1) the administrative law judge's record and  
8.6 report, and (2) the findings, conclusions and final decision of the council. The scope of  
8.7 review shall be that of section 14.69, provided that: (1) the court shall not give preference  
8.8 to either the administrative law judge's record and report or the findings, conclusions  
8.9 and final decision of the council, and (2) the decision of the court shall be based upon a  
8.10 preponderance of the evidence as contained in the record on appeal. The costs of the  
8.11 appeal shall be apportioned by the court.

8.12 Sec. 11. Minnesota Statutes 2006, section 473.867, subdivision 1, is amended to read:

8.13 Subdivision 1. **Advisory materials, models, assistance.** The council shall prepare  
8.14 and provide advisory materials, model plan provisions and official controls, and on the  
8.15 request of a local governmental unit may provide assistance, to accomplish the purposes  
8.16 of sections 462.355, ~~subdivision 4~~, 473.175, and 473.851 to 473.871. The council may  
8.17 also provide specific technical and legal assistance in connection with the preparation,  
8.18 adoption and defense of plans, programs, and controls.

8.19 Sec. 12. Minnesota Statutes 2006, section 473.867, subdivision 2, is amended to read:

8.20 Subd. 2. **Planning assistance fund.** The council ~~shall~~ may establish a planning  
8.21 assistance fund as a separate bookkeeping account in its general fund for the purpose of  
8.22 making grants and loans to local governmental units under this section. The council shall  
8.23 adopt uniform procedures for the award, disbursement and repayment of grants and loans.

8.24 Sec. 13. Minnesota Statutes 2006, section 473.869, is amended to read:

8.25 **473.869 EXTENSION.**

8.26 A local governmental unit may by resolution request that the council extend the  
8.27 time for fulfilling the requirements of sections 462.355, subdivision ~~4~~ 1a, 473.175, and  
8.28 473.851 to 473.871. A request for extension shall be accompanied by a description of  
8.29 the activities previously undertaken by a local governmental unit in fulfillment of the  
8.30 requirements of sections 462.355, ~~subdivision 4~~, 473.175, and 473.851 to 473.871, and  
8.31 an explanation of the reasons necessitating and justifying the request. Upon a finding of  
8.32 exceptional circumstances or undue hardship, the council may, in its discretion, grant by

9.1 resolution a request for extension and may attach reasonable requirements or conditions to  
9.2 the extension.

9.3 Sec. 14. Minnesota Statutes 2006, section 473.871, is amended to read:

9.4 **473.871 NEW MUNICIPAL SEWER SYSTEMS.**

9.5 Notwithstanding the provisions of sections 462.355, ~~subdivision 4~~, 473.175, and  
9.6 473.851 to 473.871 the council shall have no authority under this chapter to require a local  
9.7 governmental unit to construct a new sewer system.

9.8 Sec. 15. **REPEALER.**

9.9 Minnesota Statutes 2006, sections 473.1455; and 473.868, are repealed.

9.10 Sec. 16. **APPLICATION.**

9.11 Sections 1 to 15 apply in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey,  
9.12 Scott, and Washington.

9.13 Sec. 17. **EFFECTIVE DATE.**

9.14 Sections 1 to 16 are effective the day following final enactment.