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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 1071

02/19/2015 Authored by McNamara

The bill was read for the first time and referred to the Committee on Government Operations and Elections Policy

1.1 A bill for an act
1.2 relating to local government; prohibiting local governments from using the power
1.3 of eminent domain to acquire real property for parks and recreational space;
1.4 amending Minnesota Statutes 2014, sections 368.01, subdivision 27; 373.01, by
1.5 adding a subdivision; 383A.07, subdivisions 1, 16, 17; 383A.554; 383B.72;
1.6 398.08; 398.09; 398.32, subdivision 1; 412.211; 448.03; 465.01; 465.15; 465.16.

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

1.8 Section 1. Minnesota Statutes 2014, section 368.01, subdivision 27, is amended to read:

1.9 Subd. 27. **Power of eminent domain.** A town that has special powers under this
1.10 section may acquire private property within or without its limits by eminent domain for
1.11 any purpose for which it is authorized by law to take or hold property by purchase or gift.
1.12 It may also acquire by eminent domain a right-of-way for sewerage or drainage purposes
1.13 and an outlet for sewerage or drainage within or without its limits. The procedure shall
1.14 be that prescribed by chapter 117. A town may not use eminent domain to acquire real
1.15 property for parks and recreational space.

1.16 Sec. 2. Minnesota Statutes 2014, section 373.01, is amended by adding a subdivision
1.17 to read:

1.18 Subd. 5. **Park lands; no eminent domain.** Notwithstanding any other grant of
1.19 authority in general or special law, a county may not use the power of eminent domain
1.20 to acquire real property for parks and recreational space.

1.21 Sec. 3. Minnesota Statutes 2014, section 383A.07, subdivision 1, is amended to read:

1.22 Subdivision 1. **Parks and open space system.** Ramsey County may acquire real
1.23 and personal property within or without the county by purchase, lease, gift, ~~condemnation,~~

2.1 option, contract or otherwise including any estate, interest, easement or right, and subject to
 2.2 any estate, interest, easement or right. The county shall hold, improve, maintain, supervise,
 2.3 control and operate the property so acquired for park, open space or recreational purposes.

2.4 Sec. 4. Minnesota Statutes 2014, section 383A.07, subdivision 16, is amended to read:

2.5 Subd. 16. **Park and recreational areas.** Ramsey County may acquire by gift, or
 2.6 purchase, ~~or condemnation~~, and may improve and maintain public parks, bathing beaches
 2.7 and other recreational areas.

2.8 The county may by ordinance provide for the use, government and protection of
 2.9 these public parks, bathing beaches and other recreational areas.

2.10 Sec. 5. Minnesota Statutes 2014, section 383A.07, subdivision 17, is amended to read:

2.11 Subd. 17. **Navigable lakes; improvement and recreation grounds.** Ramsey
 2.12 County may appropriate and expend moneys for the improvement of navigable lakes
 2.13 lying wholly or partly inside the county.

2.14 Ramsey County may acquire land inside the county by gift, lease, or purchase ~~or~~
 2.15 ~~condemnation~~, in the vicinity of a lake of this kind, for a public recreational purpose, and
 2.16 may acquire, improve, equip and maintain these recreational grounds.

2.17 Sec. 6. Minnesota Statutes 2014, section 383A.554, is amended to read:

2.18 **383A.554 POWERS AND DUTIES.**

2.19 Before December 31, 1989, the Charter Commission shall deliver to the board of
 2.20 county commissioners either (1) its report determining that the present form of county
 2.21 government is adequate for the county and that a charter is not necessary or desirable,
 2.22 or (2) a draft of a proposed charter. The report must be signed by a majority of the
 2.23 members of the charter commission. The proposed charter may provide for any form of
 2.24 government consistent with the Constitution of the state of Minnesota. It may provide for
 2.25 the establishment and administration of all departments of a county government and for
 2.26 the regulation of all local county functions. It may abolish or consolidate any department
 2.27 or agency. The charter commission is required to hold at least one public hearing in
 2.28 each of the county commissioner districts.

2.29 It shall provide for present functions to be assumed by new elective or appointive
 2.30 officers as shall be provided for in the charter and may provide for other powers consistent
 2.31 with other law. It shall provide methods of procedure in respect to the operation of the
 2.32 government created and the duties of all officers. It shall provide for a home rule charter
 2.33 commission consistent with article XII, section 5, of the Constitution of the state of

3.1 Minnesota and may provide for alternative methods for amending or abandoning the
 3.2 charter consistent with the Constitution. Except as otherwise provided in this section, the
 3.3 county may be authorized to acquire by gift, devise, purchase, or condemnation or sell
 3.4 or lease any property needed for the full discharge of its duties and powers. The county
 3.5 may not be authorized to acquire by condemnation real property for parks and recreational
 3.6 space. All special and general laws authorizing the county to incur indebtedness or issue
 3.7 bonds shall be subject to the charter, provided that the charter provisions are not in conflict
 3.8 with general laws relating to public indebtedness. The county shall continue to have all
 3.9 the powers granted by law.

3.10 Personnel matters relating to Ramsey County employees shall continue to be
 3.11 governed by sections 383A.281 to 383A.301 and sections 197.455 to 197.48. A charter
 3.12 proposed for adoption under sections 383A.551 to 383A.556 shall not apply to personnel
 3.13 matters.

3.14 Sec. 7. Minnesota Statutes 2014, section 383B.72, is amended to read:

3.15 **383B.72 LAND ACQUISITION; TOWN CONSENT.**

3.16 Notwithstanding the provisions of section 398.09, the Board of Park District
 3.17 Commissioners of the Three Rivers Park District, before acquiring by purchase or
 3.18 ~~condemnation~~ real estate located within the boundaries of any organized town in Hennepin
 3.19 County, shall secure the consent of the town board of such town to such acquisition,
 3.20 by resolution duly adopted by such board.

3.21 Sec. 8. Minnesota Statutes 2014, section 398.08, is amended to read:

3.22 **398.08 GENERAL POWERS.**

3.23 Park districts shall have all the rights, powers, privileges, and immunities of a
 3.24 municipal corporation at common law and they shall be subject to the duties of a municipal
 3.25 corporation at common law. Except as otherwise limited in this chapter they shall have
 3.26 perpetual succession, may sue and be sued, may use a corporate seal, may acquire by lease,
 3.27 purchase, gift, ~~condemnation~~, or otherwise such real and personal property as the purposes
 3.28 of the board may require and may hold, manage, control, sell, convey, lease or otherwise
 3.29 dispose of such property or its interests therein. The board shall have full authority to
 3.30 exercise all the powers of the district, to make all necessary or desirable contracts, to
 3.31 procure public liability and other insurance protection as may be necessary or desirable, to
 3.32 hire and employ help and assistance as its needs require, ~~to exercise the power of eminent~~
 3.33 ~~domain~~, to enact ordinances, and to declare that the violation thereof shall be a penal
 3.34 offense and to prescribe the penalties thereof, not to exceed a fine of \$100, or imprisonment

4.1 in a statutory city or county jail for a period of not more than 90 days, or both, and in either
 4.2 case the cost of prosecution may be added to the penalties imposed. The board shall have
 4.3 full power and authority to acquire and establish parks and to operate, maintain, protect,
 4.4 improve and preserve a park system and to conduct a recreational program in its parks.

4.5 Sec. 9. Minnesota Statutes 2014, section 398.09, is amended to read:

4.6 **398.09 SPECIFIC POWERS.**

4.7 Park district boards in addition to the foregoing general powers shall have these
 4.8 specific powers:

4.9 (a) The power to regulate by ordinance the use of the waters of any lake lying
 4.10 wholly within a park established under this chapter and the use of any lake shore which
 4.11 is within a park established under this chapter and the waterfront immediately abutting
 4.12 such lake shore for not to exceed 300 feet therefrom, by all persons, including persons
 4.13 boating, swimming, fishing, skating, or otherwise, in, upon, or about said lake, lake shore,
 4.14 and abutting waterfront, subject to regulation by the state of Minnesota.

4.15 (b) The power to acquire lands either within or without the park district for
 4.16 conversion into forest reserves and for the conservation of the natural resources of the
 4.17 state, including streams, lakes, submerged lands and swamplands, and to these ends may
 4.18 create parks, parkways, forest reservations and other reservations and afforest, develop,
 4.19 improve, protect and promote the use of the same in such manner as is conducive to the
 4.20 general welfare. These lands may be acquired by the board, on behalf of the district, by
 4.21 gift or devise, or by purchase ~~or by condemnation~~. In furtherance of the use and enjoyment
 4.22 of the lands controlled by it, the board may accept donations of money or other property,
 4.23 or may act as trustee of land, money or other property and use and administer the same as
 4.24 stipulated by the donor, or as provided in the trust agreement. The terms of each trust shall
 4.25 first be approved by the district court before acceptance by the board. If the park district
 4.26 includes all or part of more than one court district, approval shall be by the district court of
 4.27 the court district having the largest area within the park district. ~~In case of condemnation~~
 4.28 ~~the proceedings are to be instituted in the name of the district and conducted in the manner~~
 4.29 ~~provided in chapter 117 and acts now in effect and hereafter adopted amendatory thereof~~
 4.30 ~~and supplemental thereto~~. Either the fee or any lesser interest may be acquired as the
 4.31 board deems advisable. Nothing herein contained shall authorize the board to:

4.32 (†) ~~acquire real estate by purchase or condemnation~~ which is located within the
 4.33 boundaries of an incorporated statutory city or city unless the governing body of such
 4.34 statutory city or city shall have consented thereto by resolution duly adopted; ~~or.~~

5.1 ~~(2) acquire real estate by condemnation which is located outside the park district~~
5.2 ~~unless the board of county commissioners of the county in which such property is located~~
5.3 ~~has consented thereto by resolution duly adopted.~~

5.4 (c) The power, if the board finds that any lands which it has acquired are not
5.5 necessary for the purposes for which acquired, to dispose of such lands upon such terms
5.6 as are advisable, including the power to transfer such lands to other public corporations.
5.7 Where lands which were acquired by condemnation less than 20 years before are to be
5.8 sold to private parties, the former owners, or their heirs, successors or assigns, shall be
5.9 notified in writing of the board's intent to dispose of the properties and shall be given 20
5.10 days to purchase the property taken from them at such price as the board shall deem
5.11 fair compensation to the district for such property. The board may lease any of its lands
5.12 or permit their use for purposes consistent with the purposes for which the lands were
5.13 acquired upon such terms as are advisable. No such lands shall be sold without the
5.14 approval of the district court of the county in which the lands are situated.

5.15 (d) The power to fix, alter, charge, and collect fees, tolls, and charges for the use of
5.16 facilities of the park district, for services rendered by, or for any commodities furnished
5.17 by, or for licenses issued by, the board pursuant to ordinances authorized hereunder. All
5.18 fines collected for any violation of a board's ordinance shall be paid into the treasury of
5.19 such park district board.

5.20 (e) The power to borrow, make, and issue negotiable bonds, notes, and other
5.21 evidences of indebtedness, subject to the provisions of sections 398.16 and 398.17, and
5.22 to pledge its full faith, credit, and taxing power to the payment thereof, and/or to secure
5.23 the payment of such obligations or any part thereof by mortgage, lien, pledge, deed of
5.24 trust otherwise, on all or any of its property, contracts, franchises, or revenues and to make
5.25 such agreements with the purchasers or holders of such notes, bonds or other evidences of
5.26 indebtedness or with others in connection with the same, whether issued or to be issued.

5.27 (f) The power to cooperate with or borrow from any governmental organization,
5.28 state or federal, or from any agency of the state or federal government for any purpose
5.29 within the scope of the authority of this corporation.

5.30 (g) The power to cooperate with any public or municipal corporation, with the
5.31 counties and with any private or public organization engaged in conservation, recreational
5.32 activities, protection of the public health and safety, prevention of water pollution,
5.33 sanitation, and/or mosquito abatement for any constructive purpose, and the power, upon
5.34 request, to assume control of all or a portion of any existing parks or park lands owned by
5.35 any county government or municipal corporation in the park district; such control shall
5.36 be assumed only at the request of and by agreement with the public authority in control

6.1 of such parks or park lands. Thereupon such parks or park lands may be developed,
 6.2 improved, protected, and operated as a park as in case of lands otherwise acquired by the
 6.3 board. Such acquisition or assumption of control or operation of a municipal park system
 6.4 by a park district shall in no way impair the authority and power of such municipality
 6.5 to levy and collect taxes for park, playground, and recreational purposes, all or part of
 6.6 such tax funds to be transferred to the park district for such uses as may be agreed upon
 6.7 between the district and the municipality.

6.8 (h) The power to designate employees as police officers within the parks under the
 6.9 jurisdiction and control of the board, and employees so designated may exercise all the
 6.10 powers of police officers within the park lands under the jurisdiction and control of the
 6.11 board. Before exercising these powers, each such employee shall take an oath and give a
 6.12 bond to the state in such sum as the board prescribes for the proper performance of the
 6.13 employee's duties in such respect. The board may contract with municipalities or with
 6.14 the county or counties for the policing of park properties.

6.15 (i) The power to enter into an agreement under section 471.59 with any political
 6.16 subdivision, governmental unit, or agency, including an elected park and recreation
 6.17 board in a city of the first class, to expend public money, including bond proceeds, in its
 6.18 possession for any metropolitan regional park purposes, including transferring money in
 6.19 its possession as a grant to other political subdivisions, governmental units, or agencies,
 6.20 including an elected park and recreation board in a city of the first class.

6.21 Sec. 10. Minnesota Statutes 2014, section 398.32, subdivision 1, is amended to read:

6.22 Subdivision 1. **Acquisition, establishment, and maintenance.** Any county may
 6.23 acquire by purchase, lease, or gift ~~or by condemnation~~ as provided by law any land or
 6.24 water areas or interests therein within or outside of the county which the county board
 6.25 deems suitable for use by the residents of the county for public park purposes and related
 6.26 outdoor recreational purposes, may establish and name the same as county parks or other
 6.27 units, and may hold, improve, maintain, supervise, control, and operate the same for said
 6.28 purposes; provided, that no such area situated in any other county as defined by section
 6.29 398.31 or otherwise shall be acquired without the approval by resolution of the county
 6.30 board thereof, and no such area situated within the limits of any city shall be acquired
 6.31 without the approval by resolution of the governing body thereof.

6.32 Sec. 11. Minnesota Statutes 2014, section 412.211, is amended to read:

6.33 **412.211 GENERAL STATUTORY CITY POWERS.**

7.1 (a) Every city shall be a municipal corporation having the powers and rights and
 7.2 being subject to the duties of municipal corporations at common law. Each shall have
 7.3 perpetual succession, may sue and be sued, may use a corporate seal, may acquire, either
 7.4 within or without its corporate limits, such real and personal property as the purposes of
 7.5 the city may require, by purchase, gift, devise, condemnation, lease or otherwise, and may
 7.6 hold, manage, control, sell, convey, lease, or otherwise dispose of such property as its
 7.7 interests require. The powers listed in this act are not exclusive and other provisions of
 7.8 law granting additional powers to cities or to classes of cities shall apply except where
 7.9 inconsistent with this chapter.

7.10 (b) Notwithstanding the authority granted in paragraph (a), a city may not acquire by
 7.11 condemnation real property for use as park or recreational space.

7.12 Sec. 12. Minnesota Statutes 2014, section 448.03, is amended to read:

7.13 **448.03 FOURTH CLASS CHARTER CITY LAND FOR PARK,**
 7.14 **FAIRGROUNDS.**

7.15 Any city of the fourth class, operating under a home rule charter, may acquire
 7.16 by purchase ~~or condemnation~~ a tract of land not exceeding 25 acres, lying within
 7.17 the corporate limits of the city, and devote the same to the uses of a public park and
 7.18 incidentally may grant to the county agricultural society of the county in which the city is
 7.19 situated the right to hold the annual county fair in the part of the park as shall not interfere
 7.20 with its general usefulness for park purposes.

7.21 Sec. 13. Minnesota Statutes 2014, section 465.01, is amended to read:

7.22 **465.01 POWER OF EMINENT DOMAIN.**

7.23 (a) All cities may exercise the power of eminent domain for the purpose of acquiring
 7.24 private property within or without the corporate limits thereof for any purpose for which it
 7.25 is authorized by law to take or hold the same by purchase or gift and may exercise the
 7.26 power of eminent domain for the purpose of acquiring a right-of-way for sewerage or
 7.27 drainage purposes and an outlet for sewerage or drainage within or without the corporate
 7.28 limits thereof. The procedure in the event of condemnation shall be that prescribed by
 7.29 chapter 117, or that prescribed by the charter of such city.

7.30 (b) Notwithstanding the authority granted in paragraph (a), a statutory or home rule
 7.31 charter city may not acquire by condemnation real property for use as park or recreational
 7.32 space.

8.1 Sec. 14. Minnesota Statutes 2014, section 465.15, is amended to read:

8.2 **465.15 CITIES MAY ACQUIRE EXEMPT PROPERTY.**

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

8.12 Sec. 15. Minnesota Statutes 2014, section 465.16, is amended to read:

8.13 **465.16 POWER OF EMINENT DOMAIN.**

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

8.23 (b) Notwithstanding the authority granted in paragraph (a), a statutory or home rule
8.24 charter city council or board of park commissioners may not acquire by condemnation real
8.25 property for use as park or recreational space.