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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 2050

03/19/2015 Authored by Albright, Halverson, Nash, Draskowski, Hoppe and others

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 the Metropolitan Council; modifying the Metropolitan Land
1.3 Planning Act to eliminate authority of the Metropolitan Council to require
1.4 local comprehensive plan amendments in response to council policies, plans,
1.5 and system statements; amending Minnesota Statutes 2014, sections 473.145;
1.6 473.175, subdivisions 1, 2; 473.851; 473.856; 473.858, subdivision 1; 473.859,
1.7 subdivisions 3, 4; 473.864, subdivision 2; 473.865, subdivision 2; 473.87;
1.8 repealing Minnesota Statutes 2014, sections 473.175, subdivision 3; 473.857;
1.9 473.864, subdivision 1; 473.866.

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

1.11 Section 1. Minnesota Statutes 2014, section 473.145, is amended to read:

1.12 **473.145 DEVELOPMENT GUIDE.**

1.13 The Metropolitan Council shall prepare and adopt, after appropriate study and
1.14 such public hearings as may be necessary, a comprehensive development guide for the
1.15 metropolitan area. It shall consist of a compilation of policy statements, goals, standards,
1.16 programs, and maps prescribing guides for the orderly and economical development,
1.17 public and private, of the metropolitan area. The comprehensive development guide shall
1.18 recognize and encompass physical, social, or economic needs of the metropolitan area
1.19 and those future developments which will have an impact on the entire area including
1.20 but not limited to such matters as land use, zoning, parks and open space land needs,
1.21 the necessity for and location of airports, highways, transit facilities, public hospitals,
1.22 libraries, schools, and other public buildings. The development guide is advisory in nature
1.23 and no local unit of government is required to comply or conform to the guide. A local
1.24 unit of government may, by a vote of the governing body, decide that some or all of the
1.25 provisions of the guide are binding on it.

2.1 Sec. 2. Minnesota Statutes 2014, section 473.175, subdivision 1, is amended to read:

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

2.13 Sec. 3. Minnesota Statutes 2014, section 473.175, subdivision 2, is amended to read:

2.14 Subd. 2. **120-day limit.** Within 120 days following receipt of a comprehensive plan
 2.15 of a local governmental unit, unless a time extension is mutually agreed to, the council
 2.16 shall return to the local governmental unit a statement containing its comments and, by
 2.17 resolution, its decision, if any, to ~~require~~ recommend modifications to assure conformance
 2.18 with the metropolitan system plans.

2.19 ~~No action shall be taken by any local governmental unit to place any such~~
 2.20 ~~comprehensive plan or part thereof into effect until the council has returned the statement~~
 2.21 ~~to the unit and until the local governmental unit has incorporated any modifications in the~~
 2.22 ~~plan required by a final decision, order, or judgment made pursuant to section 473.866.~~
 2.23 ~~If within 120 days, unless a time extension is mutually agreed to, the council fails to~~
 2.24 ~~complete its written statement the plans shall be deemed approved and may be placed into~~
 2.25 ~~effect. Any amendment to a plan subsequent to the council's review shall be submitted~~
 2.26 ~~to and acted upon by the council in the same manner as the original plan. The written~~
 2.27 ~~statement of the council shall be filed with the plan of the local government unit at all~~
 2.28 ~~places where the plan is required by law to be kept on file.~~

2.29 Sec. 4. Minnesota Statutes 2014, section 473.851, is amended to read:

2.30 **473.851 LEGISLATIVE FINDINGS AND PURPOSE.**

2.31 The legislature finds and declares that the local governmental units within the
 2.32 metropolitan area are interdependent, that the growth and patterns of urbanization within
 2.33 the area create the need for additional state, metropolitan and local public services and
 2.34 facilities and increase the danger of air and water pollution and water shortages, and

3.1 that developments in one local governmental unit may affect the provision of regional
 3.2 capital improvements for sewers, transportation, airports, water supply, and regional
 3.3 recreation open space. Since problems of urbanization and development transcend local
 3.4 governmental boundaries, there is a need for the adoption of ~~e~~oordinated plans, programs
 3.5 and controls by all local governmental units in order to protect the health, safety and
 3.6 welfare of the residents of the metropolitan area and to ensure ~~e~~oordinated, orderly,
 3.7 and economic development. Therefore, it is the purpose of sections 462.355, 473.175,
 3.8 and 473.851 to 473.871 to (1) establish requirements and procedures to accomplish
 3.9 comprehensive local planning with land use controls ~~e~~onsistent with for planned, orderly,
 3.10 and staged development ~~and the metropolitan system plans~~, and (2) to provide assistance
 3.11 to local governmental units within the metropolitan area for the preparation of plans and
 3.12 official controls appropriate for their areas ~~and consistent with metropolitan system plans~~.

3.13 Sec. 5. Minnesota Statutes 2014, section 473.856, is amended to read:

3.14 **473.856 METROPOLITAN SYSTEM STATEMENTS; AMENDMENTS.**

3.15 The council shall prepare and transmit to each affected local governmental unit a
 3.16 metropolitan system statement when the council updates or revises its comprehensive
 3.17 development guide for the metropolitan area in conjunction with the decennial review
 3.18 required under section 473.864, subdivision 2, and when the council amends or modifies
 3.19 a metropolitan system plan. The statement shall contain information relating to the unit
 3.20 and appropriate surrounding territory that the council determines necessary for the unit to
 3.21 consider in reviewing the unit's comprehensive plan. The statement may include:

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

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

3.27 Within nine months after receiving a system statement for an amendment to a
 3.28 metropolitan system plan, and within three years after receiving a system statement issued
 3.29 in conjunction with the decennial review required under section 473.864, subdivision 2,
 3.30 each affected local governmental unit shall review its comprehensive plan to determine if
 3.31 ~~an amendment is necessary to ensure continued conformity with~~ it wants to amend the
 3.32 plan to take into account the amended or updated metropolitan system plans. ~~If an the~~
 3.33 local governmental unit prepares an amendment is necessary, the governmental unit
 3.34 shall ~~prepare the amendment and~~ submit it to the council for review pursuant to sections
 3.35 462.355, 473.175, and 473.851 to 473.871.

4.1 Sec. 6. Minnesota Statutes 2014, section 473.858, subdivision 1, is amended to read:

4.2 Subdivision 1. **No conflicting zoning, fiscal device, official control.** Within nine
 4.3 months following the receipt of a metropolitan system statement for an amendment to a
 4.4 metropolitan system plan and within three years following the receipt of a metropolitan
 4.5 system statement issued in conjunction with the decennial review required under section
 4.6 473.864, subdivision 2, every local governmental unit shall have reviewed and, if ~~necessary~~
 4.7 desired, amended its comprehensive plan in accordance with sections 462.355, 473.175,
 4.8 and 473.851 to 473.871 and the applicable planning statute and shall have submitted the
 4.9 plan to the Metropolitan Council for review pursuant to section 473.175. The provisions
 4.10 of sections 462.355, 473.175, and 473.851 to 473.871 shall supersede the provisions of the
 4.11 applicable planning statute wherever a conflict may exist. If the comprehensive municipal
 4.12 plan is in conflict with the zoning ordinance, the zoning ordinance shall be brought into
 4.13 conformance with the plan by local government units in conjunction with the review and, if
 4.14 ~~necessary~~ desired, amendment of its comprehensive plan required under section 473.864,
 4.15 subdivision 2. A local government unit shall not adopt any fiscal device or official control
 4.16 which is in conflict with its comprehensive plan, including any amendments to the plan, ~~or~~
 4.17 ~~which permits activity in conflict with metropolitan system plans, as defined by section~~
 4.18 ~~473.852, subdivision 8.~~ The comprehensive plan shall provide guidelines for the timing
 4.19 and sequence of the adoption of official controls to ensure planned, orderly, and staged
 4.20 development and redevelopment consistent with the comprehensive plan. For purposes
 4.21 of this section, a fiscal device or official control shall not be considered to be in conflict
 4.22 with a local government unit's comprehensive plan or to permit an activity in conflict with
 4.23 metropolitan system plans if such fiscal device or official control is adopted to ensure
 4.24 the planned, orderly, and staged development of urbanization or redevelopment areas
 4.25 designated in the comprehensive plan pursuant to section 473.859, subdivision 5.

4.26 Sec. 7. Minnesota Statutes 2014, section 473.859, subdivision 3, is amended to read:

4.27 Subd. 3. **Public facilities plan.** A public facilities plan shall describe the character,
 4.28 location, timing, sequence, function, use and capacity of existing and future public
 4.29 facilities of the local governmental unit. A public facilities plan must be in at least such
 4.30 detail as may be necessary to establish existing or potential effects on or departures from
 4.31 metropolitan system plans ~~and to protect metropolitan system plans.~~ A public facilities
 4.32 plan shall contain at least the following parts:

4.33 (1) a transportation plan describing, designating and scheduling the location, extent,
 4.34 function and capacity of existing and proposed local public and private transportation
 4.35 services and facilities;

5.1 (2) a sewer policy plan describing, designating and scheduling the areas to be
 5.2 sewer by the public system, the existing and planned capacities of the public system, the
 5.3 standards and conditions under which the installation of private sewer systems will be
 5.4 permitted, and to the extent practicable, the areas not suitable for public or private systems
 5.5 because of public health, safety and welfare considerations;

5.6 (3) a parks and open space plan describing, designating and scheduling the existing
 5.7 and proposed parks and recreation open spaces within the jurisdiction; and

5.8 (4) a water supply plan as described in section 103G.291, subdivision 3.

5.9 Sec. 8. Minnesota Statutes 2014, section 473.859, subdivision 4, is amended to read:

5.10 Subd. 4. **Implementation program.** An implementation program shall describe
 5.11 public programs, fiscal devices and other specific actions to be undertaken in stated
 5.12 sequence to implement the comprehensive plan ~~and ensure conformity with metropolitan~~
 5.13 ~~system plans~~. An implementation program must be in at least such detail as may be
 5.14 necessary to establish existing or potential effects on or departures from metropolitan
 5.15 system plans ~~and to protect metropolitan system plans~~. An implementation program
 5.16 shall contain at least the following parts:

5.17 (1) a description of official controls, addressing at least the matters of zoning,
 5.18 subdivision, water supply, and private sewer systems, and a schedule for the preparation,
 5.19 adoption, and administration of such controls;

5.20 (2) a capital improvement program for transportation, sewers, parks, water supply,
 5.21 and open space facilities; and

5.22 (3) a housing implementation program, including official controls to implement the
 5.23 housing element of the land use plan, which will provide sufficient existing and new
 5.24 housing to meet the local unit's share of the metropolitan area need for low and moderate
 5.25 income housing.

5.26 Sec. 9. Minnesota Statutes 2014, section 473.864, subdivision 2, is amended to read:

5.27 Subd. 2. **Decennial review.** By December 31, 1998, and at least once every ten
 5.28 years thereafter, each local governmental unit shall review and, if ~~necessary~~ desired,
 5.29 amend its entire comprehensive plan and its fiscal devices and official controls. Such
 5.30 review and, if ~~necessary~~ desired, amendment shall ensure that, as provided in section
 5.31 473.865, the fiscal devices and official controls of each local government unit are not
 5.32 in conflict with its comprehensive plan. Upon completion of review and, if ~~necessary~~
 5.33 desired, amendment of its comprehensive plan, fiscal devices, and official controls as
 5.34 required by this section, each local government unit shall either:

6.1 (a) submit to the Metropolitan Council the entire current comprehensive plan
 6.2 together with written certification by the governing body of the local government unit that
 6.3 it has complied with this section and ~~that no~~ whether there are amendments to its plan or
 6.4 fiscal devices or official controls ~~are necessary~~; or

6.5 (b)(1) submit the entire updated comprehensive plan and amendment or amendments
 6.6 to its comprehensive plan ~~neecessitated by~~ resulting from its review to the Metropolitan
 6.7 Council for review and comment; and

6.8 (2) submit the amendment or amendments to its fiscal devices or official controls
 6.9 ~~neecessitated by~~ resulting from its review to the Metropolitan Council for information
 6.10 purposes as provided by section 473.865.

6.11 Except as otherwise provided in this paragraph, local governments shall consider, in
 6.12 preparing their updated comprehensive plans, amendments to metropolitan system plans
 6.13 in effect on December 31, 1996. For metropolitan system plans, or amendments thereto,
 6.14 adopted after December 31, 1996, each local governments government shall review ~~their~~
 6.15 its comprehensive plans to determine if ~~an amendment is necessary to conform to the~~
 6.16 ~~metropolitan system plans~~ the local government wants to amend the plan. If an amendment
 6.17 is ~~necessary~~ desired, the local government shall prepare the amendment and submit it to
 6.18 the council for review by September 30, 1999, or nine months after the council transmits
 6.19 the metropolitan system plan amendment to the local government, whichever is later.

6.20 The periodic review required in this subdivision shall be in addition to the review
 6.21 required by section 473.856.

6.22 The Metropolitan Council may grant extensions to local government units in order
 6.23 to allow local government units to complete the review ~~and, if necessary, amendment~~
 6.24 ~~required by this subdivision~~. Such extensions, if granted by the Metropolitan Council,
 6.25 must include a timetable and plan for completion of the review ~~and amendment~~.

6.26 Amendments to comprehensive plans of local governmental units shall be prepared,
 6.27 adopted, and submitted, ~~and adopted in conformance with guidelines adopted by~~ to the
 6.28 Metropolitan Council pursuant to section 473.854.

6.29 Sec. 10. Minnesota Statutes 2014, section 473.865, subdivision 2, is amended to read:

6.30 Subd. 2. **No conflict with plans.** A local governmental unit shall not adopt any
 6.31 official control or fiscal device which is in conflict with its comprehensive plan ~~or which~~
 6.32 ~~permits activity in conflict with metropolitan system plans.~~

6.33 Sec. 11. Minnesota Statutes 2014, section 473.87, is amended to read:

6.34 **473.87 LEVY FOR INCREASED COSTS.**

7.1 The increased costs to a municipality of implementing sections 473.175; 473.858,
7.2 subdivisions 1 to 3; and 473.859 to 473.862; ~~and 473.866~~ shall be deemed a levy and the
7.3 proceeds of any tax levied under this section shall be deposited in the municipal treasury
7.4 in a separate fund and expended only for the purposes authorized by this section.

7.5 Sec. 12. **REPEALER.**

7.6 Minnesota Statutes 2014, sections 473.175, subdivision 3; 473.857; 473.864,
7.7 subdivision 1; and 473.866, are repealed.

7.8 Sec. 13. **APPLICATION; EFFECTIVE DATE.**

7.9 This act applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey,
7.10 Scott, and Washington. This act is effective August 1, 2015, and applies to all policies,
7.11 plans, guides, ordinances, applications, or other matters submitted to the Metropolitan
7.12 Council on or after that date.

473.175 REVIEW OF COMPREHENSIVE PLANS.

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

473.857 SYSTEM STATEMENTS; RECONCILIATION PROCEDURES.

Subdivision 1. **Request for hearing.** If a local governmental unit and the council are unable to resolve disagreements over the content of a system statement, the unit may by resolution request that a hearing be conducted by the advisory committee or by the state Office of Administrative Hearings for the purpose of considering amendments to the system statement. The request shall be made by the unit within 60 days after receipt of the system statement and shall be accompanied by a description of the disagreement together with specified proposed amendments to the system statement. If no request for a hearing is received by the council within 60 days, the statement shall be final.

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

Subd. 3. **Final determination.** Within 30 days of receipt of the report, the council, by resolution containing findings of fact and conclusions, shall make a final determination respecting the proposed amendments. At any point in the reconciliation procedure established by this section, the council and a local governmental unit may resolve their disagreement by stipulation.

473.864 PLANS; ADOPTION; AMENDMENT.

Subdivision 1. **When adopted.** Each local governmental unit shall adopt its comprehensive plan with required modifications within nine months following a final decision, order, or judgment made pursuant to section 473.866.

473.866 CONTESTED CASES; ADMINISTRATIVE AND JUDICIAL REVIEW.

The council's decision to require modification under section 473.175 may be contested by the affected local governmental unit. The unit shall have 60 days within which to request a hearing on the council's decision to require modification. If within 60 days the unit has not requested a hearing, the council shall make its final decision with respect to the required modifications. If an affected unit requests a hearing, the request for hearing shall be granted, and the hearing shall be conducted within 60 days by the state Office of Administrative Hearings in the manner provided by chapter 14 for contested cases. The 60-day period within which the hearing shall be conducted may be extended by mutual agreement of the council and the affected local governmental unit. The subject of the hearing shall not extend to questions concerning the need for or reasonableness of the metropolitan system plans or any part thereof. In the report of the administrative law judge the costs of the hearing shall be apportioned among the parties to the proceeding. Within 30 days after the receipt of the report the council shall, by resolution containing findings of fact and conclusions, make a final decision with respect to the required modifications of the comprehensive plan. Any party to the proceeding aggrieved by the decision of the council may appeal to the court in the manner provided in chapter 14 for contested cases. The record on appeal shall consist of:

APPENDIX

Repealed Minnesota Statutes: 15-3755

(1) the administrative law judge's record and report, and (2) the findings, conclusions and final decision of the council. The scope of review shall be that of section 14.69, provided that: (1) the court shall not give preference to either the administrative law judge's record and report or the findings, conclusions and final decision of the council, and (2) the decision of the court shall be based upon a preponderance of the evidence as contained in the record on appeal. The costs of the appeal shall be apportioned by the court.