

July 2018

**2018 Legislation Relating to
Local and Metropolitan
Government**

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Government**

This report describes legislation enacted in the 2018 regular session relating to local and metropolitan government.

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Contents

Introduction..... 1

Local Governments Generally..... 3

Counties 7

Towns 8

Special Legislation 8

Metropolitan Government 9

Vetoed Legislation 9

Introduction

This report describes legislation enacted in the 2018 regular session that deals with local and metropolitan government powers, duties, and finance. This report does *not* cover all legislation that affects local governments and it does not summarize appropriations.

All the citations in this report are to [Laws 2018](#), unless otherwise indicated. See the acts or House Research Department act summaries of the omnibus bills, and other major bills, enacted or vetoed in 2018 for other provisions that may affect local government and are not covered in this report:

Capital Investment	Chapter 214 , articles 1-3, 6
Legacy – Outdoor Heritage Fund	Chapter 208
Environment and Natural Resources Trust Fund (LCCMR) ..	Chapter 214 , article 4
Pensions	Chapter 211
Agriculture Policy, Chapter 190 – VETOED –	H.F. 4133
Supplemental Omnibus Bill, Chapter 201 – VETOED –	S.F. 3656
Agriculture	articles 25 to 26
Education – K-12	articles 46 to 52
Energy	article 5
Environment and Natural Resources	articles 19 to 21
Health and Human Services	articles 34 to 45
Higher Education.....	article 22
Jobs, Economic Development, Energy, and Housing	articles 6 to 8, 27
Miscellaneous.....	articles 53 to 55
Public Safety, Corrections, Courts	articles 28 to 33
State Government and Veterans	articles 1 to 4
Transportation	articles 23 to 24
Workers Compensation and Unemployment	articles 9 to 18
Taxes, Chapters 172, 205 – VETOED –	H.F. 4385; H.F. 947

Acts are available on the Revisor of Statutes website (<https://www.revisor.mn.gov/laws/>). Act summaries are available on the House Research website (<http://www.house.mn/hrd/actsum.aspx>).

Local Governments Generally

Uniform Municipal Contracting Law

The Uniform Municipal Contracting Law governs contracting by a municipality (county, town, city, school district, or other municipal corporation or political subdivision of the state authorized by law to enter into contracts) for the sale or purchase of supplies, materials, equipment or equipment rental, or the construction, alteration, repair, or maintenance of real or personal property.

Threshold increase. The 2018 Legislature increased the estimated contract cost threshold for when sealed bids are required—from \$100,000 to \$175,000. It also extended the range of estimated contract costs that may use direct negotiation from a range of \$25,000 to \$100,000, to \$25,000 to \$175,000. The threshold and ranges were last increased in 2008.

Ch. 107, amending Minn. Stat. § 471.345, subds. 3, 4, effective August 1, 2018, and applies to contracts entered into on or after that date.

Multiyear water tank service contracts. The 2018 Legislature modified the provision relating to multiyear water tank service contracts to require a municipality to solicit sealed bids or use the best value alternative procurement method, as required for other types of contracts estimated to cost more than \$175,000, if the contract is for “supplies, materials, equipment or the rental thereof, or the construction, alteration, repair or maintenance of real or personal property” and the estimated cost is more than \$175,000. Municipalities entering into contracts for professional services and contracts under that amount may use direct negotiation or solicit requests for proposals as under current law. The multiyear water tank service contract provision was originally enacted in 2002.

Ch. 124, amending Minn. Stat. § 471.345, subd. 5b, effective for contracts entered into on or after September 1, 2018.

Purple Heart Cities and Counties

A city or county by resolution may declare itself a “Purple Heart City” or “Purple Heart County,” indicating its honor and support of recipients of the Purple Heart. The new law allows a designated parking space at the city hall or county government center to be reserved for Purple Heart recipients. It also allows a city or county to accept donations for signs and allows a city or county to designate August 7 as Purple Heart Day.

Ch. 139, adding Minn. Stat. § 197.988, effective August 1, 2018.

Effluent Limitations, Regulatory Certainty

To the extent permitted under federal law, a municipality that constructs a publicly owned treatment works in order to comply with a new or modified effluent limitation, cannot be required to make additional capital investments to comply with new effluent limits adopted after construction begins for at least 16 years. “Municipality” includes a city, sanitary district, or other governmental subdivision or public corporation.

A law requiring the Commissioner of the Pollution Control Agency to adopt rules providing a similar exemption was passed last session but the rule was rejected by the chief administrative law judge. This establishes the exemption in statute.

Ch. 148, adding Minn. Stat. § 115.455, effective retroactively from August 1, 2017.

Closed Mine Fencing

A political subdivision that owns or leases closed or abandoned mine property for recreational or economic development purposes is exempt from some of the fencing, barrier, and signage requirements if the fencing is for the construction, operation, maintenance, or administration of the property.

Ch. 154, amending Minn. Stat. §§ 180.03, subds. 2, 3, 4; 180.10; effective August 1, 2018.

Property-Assessed Clean Energy (PACE)

The 2010 Legislature authorized a Property-Assessed Clean Energy (PACE) program to allow local governments to help finance private property owners' energy improvements by making loans and collecting the payments through special assessments. The Federal Housing Finance Agency (FHFA) raised concerns regarding the financial risks of PACE financing and prohibited Fannie Mae and Freddie Mac from purchasing or refinancing PACE-encumbered mortgages. In 2017, the Federal Housing Administration stated it would not guarantee new PACE-encumbered mortgages. There have been other concerns for consumers as well.

The 2017 Legislature suspended the PACE program and established a task force to develop consumer protection recommendations, particularly with regard to real estate transactions made after the PACE loans are made and before they are paid off. The task force included representatives of the various local government associations, realtors, energy alternative and conservation groups, and legal aid. [Laws 2017, ch. 94](#), art. 10, § 27. The report can be found on the Department of Commerce's website at <http://mn.gov/commerce-stat/pdfs/pace-report-2018.pdf>.

The 2018 Legislature enacted consumer protection changes to the residential PACE program. The new law also provides that a PACE lien is (1) subordinate to all liens on the property recorded before the PACE lien is recorded, (2) subordinate to a first mortgage on the property recorded after the PACE lien is recorded, and (3) superior to any other lien on the property recorded after the PACE lien is recorded.

Ch. 155, amending Minn. Stat. §§ 45.011, subd. 1; 46.04, subd. 1; 46.131, subds. 1, 2, 4, 11; 216C.435, subds. 1, 2, 3a, 6, 8, adding subds. 3b, 3c, 3d, 5a, 7b, 8a, 10a, 10b, 10c, 10d, 10e, 10f, 13; 216C.436, subds. 1, 2, 5, 7, 8, 9, adding subd. 1a; 290B.03, subd. 1; 429.011, subd. 2a; 429.021, subd. 1; 429.101, subd. 1; 462A.05, subd. 14b; adding Minn. Stat., § 216C.437; repealing Minn. Stat. § 216C.435, subd. 5, effective August 1, 2018.

Organized Solid Waste Collection

Cities and certain towns are required to insure that every residence and business has a means of solid waste collection and removal. [Minn. Stat. § 115A.941](#). In some communities this is provided by the local government directly, in others it is organized by the local government but provided by private haulers, and in others the local government requires individuals to arrange their own solid waste collection and removal. A county may either require cities and towns in the county to insure collection or undertake organized collection itself. [Minn. Stat. § 115A.94](#), subd. 5.

In 2013, after several years of discussion, the procedure for a local government to organize solid waste collection was modified. The 2018 Legislature made additional changes to the procedures. With the 2018 changes, the procedure is as follows:

- if there is more than one licensed hauler in the jurisdiction, then the local government must give the public and the haulers notice that it intends to establish organized collection
- local government officials must meet with existing solid waste collectors to discuss issues including pricing, street deterioration, and organized collection before establishing a committee to examine alternative solid waste collection methods
- the haulers and the local government then have at least 60 days to negotiate an agreement on how the organized collection system will work. The options may include developing a proposal to divide a city or town into zones designating for specific collectors.
- if the negotiations do not result in an agreement between the local government and the collectors, the local government can proceed to form a committee to study collection methods, including the existing system and impacts on residential subscribers' ability to choose a provider of solid waste service based on the desired level of service, costs, and other factors

After at least one public hearing, the local government may implement an organized collection system. Organized collection cannot begin until at least six months after the date of the local government's decision to implement it.

The initial organized collection system must be for at least seven years—not for three to seven years as under prior law.

An organized collection agreement cannot obligate a collector to be liable for damages to a third party caused by another licensed collector.

*Ch. 177, amending [Minn. Stat. §§ 115A.94](#), subds. 2, 4a, 4b, 4c, 4d, 5, and adding subds. 4e, 4f, effective January 1, 2019, and applies to organized collection noticed under [Minn. Stat. § 115A.94](#), subd. 2, on or after that date. (*Jennissen v. Bloomington*, - - N.W.2d ----2018 WL 3040547 (June 20, 2018) held that the law does not preempt a*

city charter from requiring a referendum on the matter.)

**North and East
Metro
Groundwater
Management Area**

Until July 1, 2019, the Commissioner of Natural Resources must not take enforcement action against a water appropriation permit holder based solely on a violation of a permit requirement added to a groundwater appropriation permit within the north and east metro groundwater management area as a result of a court order issued in 2017.

Until July 1, 2019, a public water supplier located in the seven-county metropolitan area that is within a designated groundwater management area:

- (1) is not required to revise a water supply plan to include contingency plans to fully or partially convert its water supplies to surface water;
- (2) may prepare, enact, and enforce commercial or residential irrigation bans or alternative measures that achieve similar water use reductions when notified by the Commissioner of Natural Resources that lake levels have fallen below court-ordered levels; and
- (3) is not required to use per capita residential water use as a measure for purposes of water use reduction goals, plans, and implementation and may submit water use plans and reports that use a measure other than per capita residential water use.

Ch. 181, effective June 1, 2018.

**Use of 3M
Settlement**

The 2018 Legislature established a dedicated account in the remediation fund (water quality and sustainability account) for the money received by the state as a result of a lawsuit the state filed against the 3M Company accusing the company of causing natural resource damages by its manufacture, distribution, disposal, and other environmental management of per- and poly-fluorinated chemicals (PFCs). Money in the account is statutorily appropriated to the Pollution Control Agency (PCA) and Department of Natural Resources (DNR).

The PCA and DNR must submit biannual reports on the expenditures from the account and an annual report with the expenditures and spending plan to the legislature.

The PCA and DNR must work with stakeholders to identify and recommend projects to be funded with money in the account, including representatives of east metropolitan area municipalities, and the 3M Company.

Under the settlement, 3M must pay the state \$850 million (roughly \$720 million will be available after legal and other expenses). The money must be used “to enhance the quality, quantity and sustainability of the drinking water in the East Metropolitan Area.” If this goal is “reasonably

achieved” the funds may be used to “restore and enhance aquatic resources, wildlife, habitat, fishing, resource improvement, and outdoor recreational opportunities in the East Metropolitan Area and in downstream areas of the Mississippi and St. Croix Rivers.” If any funds remain, they may be used statewide on “water resources, habitat restoration, open space preservation, recreation improvements, and other sustainability projects.” *Minnesota v. 3M*, 27-CV-10-28862 (4th Dist. Hennepin County, Minn., Feb. 20, 2018).

Ch. 204, adding Minn. Stat. §§ 115B.52; 115.53; amending Minn. Stat. § 116.155, subd. 1, adding subd. 5, effective August 1, 2018.

Counties

Metropolitan Counties and Sewer and Water Infrastructure

As of August 1, 2018, counties in the seven-county metropolitan area will have the same authority as counties outside the metropolitan area to construct, maintain, and repair waterworks, sanitary sewer, and storm sewer systems. This includes the ability to use the same financing options, such as sanitary sewer and storm sewer charges to cover costs.

According to the Minnesota Inter-County Association, metropolitan area counties need the authority because they are increasingly involved in stormwater management and facility maintenance. This is due to Stormwater Pollution Prevention Plan requirements required by the Municipal Separate Storm Sewer System (MS4) permits issued under state and federal law, and watershed management responsibilities for a watershed management organization that is county based.

Ch. 114, amending Minn. Stat. § 444.075, subd. 1a, effective August 1, 2018.

Metropolitan Counties, Recycling Grants

A Pollution Control Agency grant program that provides financial assistance to counties in the seven-county metropolitan area for planning, developing, and operating recycling and yard waste composting programs requires *counties* to match 50 percent of state funds.

The 2018 Legislature expanded who may match a state award to include a local unit of government, tribal government, or private or nonprofit organization. It also specified that grant funds may not be used to research or develop products that would be patented, copyrighted, or a subject of trade secrets.

Aggregate grant awards to all counties under this program have ranged from \$2.0 million to \$2.3 million annually in recent years.

Ch. 134, amending Minn. Stat. § 473.8441, subd. 4, effective August 1, 2018.

Uniform Municipal Contracting Law A county may use direct solicitation contracting at a higher estimated contract amount (up to \$250,000 instead of \$175,000) if the contract is with a business certified by the county as a designated small business enterprise or certified by the Commissioner of Administration as a small business that is majority owned and operated by a veteran or service-disabled veteran.

Ch. 146, amending Minn. Stat. § 471.345, by adding subd. 20, effective August 1, 2018.

Towns

Food Shelf Donations The governing body of a town may appropriate money for grants to nonprofit organizations operating community food shelves.

Cities were authorized to do this in 1995 and counties in 1998. *Ch. 105, amending Minn. Stat. § 465.039, effective August 1, 2018.*

Special Legislation

Hubbard County Hubbard County may issue an off-sale intoxicating liquor license to an exclusive liquor store located in Akeley Township.

Ch. 202, § 6, effective upon local approval.

Minneapolis Minneapolis may issue special liquor licenses for three addresses in south Minneapolis.

Ch. 202, §§ 3 to 5, effective upon local approval.

North Mankato North Mankato may issue an on-sale intoxicating liquor license, an on-sale wine license, or an on-sale malt liquor license for the city-owned facilities known as or operated by the Caswell Regional Sporting Complex.

Ch. 202, § 7, effective upon local approval.

Nowthen The Metropolitan Council must modify the city of Nowthen's land use designation upon request by the city.

Ch. 214, art. 2, § 46, effective June 19, 2018, the day after the certificate of local approval was filed with the secretary of state.

Ramsey County The Ramsey Soil and Water Conservation District is discontinued effective July 1, 2018, and all its duties and authorities are transferred to the Ramsey County Board. The Ramsey County Board may petition the Board of Water and Soil Resources (BWSR) to reestablish the district,

or BWSR on its own initiative may reestablish the district, under certain conditions and without a referendum.

Under general law, a soil and water conservation district may be discontinued by following a process, including a referendum and determination by BWSR that continued operation of the district is not administratively feasible. BWSR may only make this determination if at least a majority of the voters oppose continuing the district and a plan to continue the duties and authorities of the district is completed.

Ch. 169, adding Minn. Stat. § 383A.606, effective June 20, 2018, the day after the certificate of local approval was filed with the secretary of state.

St. Paul

The city of St. Paul, or the St. Paul Board of Water Commissioners, may use the design-build or construction manager at-risk method of project implementation on the basis of a best value selection process for the McCarron's drinking water treatment process improvements. The city must consider at least three proposals.

Ch. 189, effective May 21, 2018.

Metropolitan Government

Metropolitan Airports Commission

The Metropolitan Airports Commission is now exempt from the law setting compensation limits for political subdivisions. [Minnesota Statutes, section 43A.17](#), limits the salary and the value of all other forms of compensation of an employee of a political subdivision (excluding school districts). The limits are adjusted on January 1 of each year based on the Consumer Price Index. The new limit is equal to the limit for the prior year and increased by the percentage increase in the Consumer Price Index, if there is an increase, for all-urban consumers (CPI-U) from October of the second prior year to October of the immediately prior year. The statute also provides a process for getting an exception to the limit.

The limit as of January 1, 2018, was \$171,338.

Ch. 120, amending Minn. Stat. § 473.606, subd. 5, effective August 1, 2018.

Vetoed Legislation

Metropolitan Council Governance

The governor vetoed a bill that would have changed the size and structure of the Metropolitan Council to consist of 29 members, most of whom would serve staggered terms and would be local elected officials, including eight county commissioners and 16 city council

members. The chair would have served as the 29th member, appointed by the governor. The council would also have included the Commissioner of Transportation and appointees representing transportation interests for the purposes of the council's role as the metropolitan planning organization under federal law. In general, the act would have been effective for appointments made in 2019 by the next governor.

Ch. 196 (H.F. 3273/S.F. 2809)

Supplemental Omnibus Appropriations

The vetoed omnibus supplemental appropriations bill contained some provisions that are of interest to local governments. These include:

- Reimbursement to Wright and Becker counties for litigation costs incurred in the suit brought by the state auditor against the counties related to their decision to use a private CPA firm instead of the state auditor (Art. 1 § 5)
- Changes to the data practices act and open meeting law opinion process performed by the Commissioner of Administration (Art. 2 § 4)
- Local government testing of proposed new state computer programs before being required to implement them (Art. 2 § 5)
- Data sharing between the Department of Human Services and the Metropolitan Council for purposes of federal reimbursement and Metro Mobility (Art. 24 §§ 2, 4, and 116)
- Airport zoning (Art. 24 §§ 93 to 111)

Ch. 201 (H.F. 4099/S.F. 3656)

Omnibus Tax Bill

The vetoed omnibus tax bill contained provisions that may be of interest to local and metropolitan governments. Some of these include:

- Providing an upfront sales tax exemption for materials used in construction or remodeling of public safety facilities in the cities of Inver Grove Heights, Virginia, and Minnetonka (Art. 3 § 5)
- Explicitly prohibiting local governments from imposing local taxes or fees on food and beverages and their containers. The new prohibition does not apply to a licensing fee imposed to regulate a trade, business, or profession. (Art. 3 § 10)
- Allowing a city or town to fund its own historical society from its property tax levy, not just the county historical society (Art. 4 § 1)
- Providing a retroactive sales tax exemption for the materials and supplies used in and equipment incorporated into a water

treatment facility owned by the city of Elko New Market (Art. 4 § 11)

- Providing onetime extra aid payment to the following cities in 2019: (1) \$97,260 to the city of Hermantown to compensate it for a 2018 LGA loss due to a formula glitch, and (2) \$150,000 to the city of Lilydale to help pay some sewer costs (Art. 4 § 29)
- Extending the levy authority for the Northwest Minnesota Multicounty Housing and Redevelopment Authority by five years, to taxes payable in 2024 (Art. 4 § 30)
- Clarifying levy, debt, and membership issues related to the Cloquet Area Fire and Ambulance Special Taxing District (Art. 4 §§ 31-35)
- Increasing the maximum interest rate that counties can charge on drainage lien principal to 6 percent from the present limit, which is pegged to the rate on one-year Treasury securities. For 2018, that rate is 4 percent. (Art. 5 § 1)
- Updating the reference to the United States Bankruptcy Code to reflect amendments made since 1996 and to adopt future amendments in law authorizing municipalities to file for bankruptcy (Art. 5 § 2)
- Authorizing all towns to issue capital improvement bonds, rather than just towns with populations of 1,000 or more (Art. 5 § 4)
- Allowing the city of St. Cloud to increase its food and beverage and lodging taxes with voter approval (Art. 6 §§ 5-7)
- Allowing the city of St. Paul to increase its lodging tax (Art. 6 §§ 5-7)
- Providing special tax increment financing (TIF) authority to the cities of Bloomington and Champlin (Art. 6 §§ 9 and 13)
- Allowing the city of Cloquet to modify use of its local sales tax revenues (Art. 6 § 10)
- Modifying the amount and extending the time the city of Melrose may use its existing fire remediation grant (Art. 6 § 11)
- Allowing the city of Excelsior to impose a local sales tax with voter approval (Art. 6 § 12)

- Appropriating money to Mazeppa and Wabasha counties for abatements and other costs associated with a fire in the city on March 11, 2018 (Art. 6 § 15)

Ch. 172 (H.F. 4385/S.F. 3982)

In addition the second vetoed tax bill included:

- Limiting the prohibition on using Metropolitan Council debt for light rail improvements to obligations authorized by the 2017 Legislature (Art. 6 § 3)
- An increase in the ceiling for the Minneapolis lodging tax from 13 percent to 13.875 percent (Art. 7 § 8)

Ch. 205 (H.F. 947/S.F. 945)