

portion of it under section 40A.11, subdivision 5, all special assessments accruing to the terminated portion plus interest are payable within 90 days of the date of termination unless otherwise deferred or abated by executive order of the governor. In the event of a taking under section 40A.122, all special assessments accruing to the taken portion plus interest are payable within 90 days of the date the final certificate is filed with the court administrator of district court in accordance with section 117.205.

HIST: 1989 c 313 s 7

==40A.121

**40A.121 Annexation proceedings.**

Subdivision 1. **Annexation prohibited.** Land within an agricultural preserve that is within a township may not be annexed to a municipality under chapter 414, unless the director of the Office of Strategic and Long-Range Planning finds that either:

(1) the owner or the county has initiated termination of the zone under section 40A.11;

(2) because of size, tax base, population or other relevant factors, the township would not be able to provide normal governmental functions and services; or

(3) the zone would be completely surrounded by lands within a municipality.

Subd. 2. **Exception.** This section does not apply to annexation agreements approved under chapter 414 prior to creation of the zone.

HIST: 1Sp1985 c 13 s 140; 1989 c 313 s 10; 2003 c 2 art 5 s 3

==40A.122

**40A.122 Eminent domain actions.**

Subdivision 1. **Applicability.** An agency of the state, a public benefit corporation, a local government, or any other entity with the power of eminent domain under chapter 117, except a public utility as defined in section 216B.02, a municipal electric or gas utility, a municipal power agency, a cooperative electric association organized under chapter 308A, or a pipeline operating under the authority of the Natural Gas Act, United States Code, title 15, sections 717 to 717z, shall follow the procedures in this section before:

(1) acquiring land or an easement in land with a total area over ten acres within an agricultural preserve; or

(2) advancing a grant, loan, interest subsidy, or other funds for the construction of dwellings, commercial or industrial facilities, or water or sewer facilities that could be used to serve structures in areas that are not for agricultural use, that require an acquisition of land or an easement in an exclusive agricultural zone.

Subd. 2. **Notice of intent.** At least 60 days before an action described in subdivision 1, notice of intent must be filed with the Environmental Quality Board containing

information and in the manner and form required by the Environmental Quality Board. The notice of intent must contain a report justifying the proposed action, including an evaluation of alternatives that would not affect land within an agricultural preserve.

Subd. 3. **Review and order.** The Environmental Quality Board, in consultation with affected local governments, shall review the proposed action to determine its effect on the preservation and enhancement of agriculture and agricultural uses within the zone and the relationship to local and regional comprehensive plans. If the Environmental Quality Board finds that the proposed action might have an unreasonable effect on a zone, the Environmental Quality Board shall issue an order within the 60-day period under subdivision 2 for the party to refrain from the proposed action for an additional 60 days.

Subd. 4. **Public hearing.** During the additional 60 days, the Environmental Quality Board shall hold a public hearing concerning the proposed action at a place within the affected zone or easily accessible to the zone. Notice of the hearing must be published in a newspaper having a general circulation within the area of the zone. Individual written notice must be given to the local governments with jurisdiction over the zone, the agency, corporation or government proposing to take the action, the owner of land in the zone, and any public agency having the power of review or approval of the action.

Subd. 5. **Joint review.** The review process required in this section may be conducted jointly with any other environmental impact review by the Environmental Quality Board.

Subd. 6. **Suspension of action.** The Environmental Quality Board may suspend an eminent domain action for up to one year if it determines that the action is contrary to the purposes of this chapter and that there are feasible and prudent alternatives that may have a less negative impact on a zone.

Subd. 7. **Termination of zone.** Designation as an agricultural preserve and all benefits and limitations under this chapter, including the restrictive covenant for the portion of the zone taken, ends on the date the final certificate is filed with the administrator of district court under section 117.205.

Subd. 8. **Action by attorney general.** The Environmental Quality Board may request the attorney general to bring an action to enjoin an agency, corporation or government from violating this section.

Subd. 9. **Exception.** This section does not apply to an emergency project that is immediately necessary for the protection of life and property.

HIST: 1Sp1985 c 13 s 141; 1Sp1986 c 3 art 1 s 82; 1989 c 313 s 10; 1989 c 356 s 4

==40A.123

**40A.123 Limitation on certain public projects.**

Subdivision 1. **Projects and assessments prohibited; exception.** Notwithstanding any other law, construction projects for public sanitary sewer systems, public water systems, and public drainage systems are prohibited in exclusive

agricultural use zones. New connections between land or buildings in a zone and public projects are prohibited. Land in a zone may not be assessed for public projects built in the vicinity of the zone.

Subd. 2. **Exception; owner option.** Subdivision 1 does not apply to public projects necessary to serve land primarily in agricultural use or if the owner of land in an agricultural preserve elects to use and benefit from a public project.

Subd. 3. Repealed, 1989 c 313 s 11

HIST: 1Sp1985 c 13 s 142; 1989 c 313 s 10

==40A.151

**40A.151 Minnesota conservation fund.**

Subdivision 1. **Establishment.** The Minnesota conservation fund is established as an account in the state treasury. Money from counties under section 40A.152 must be deposited in the state treasury and credited one-half to the Minnesota conservation fund account and one-half to the general fund.

Subd. 2. **Use of fund.** Money in the fund is annually appropriated to the commissioner of revenue to reimburse taxing jurisdictions as provided in sections 273.119 and 473H.10.

HIST: 1986 c 398 art 28 s 1; 2002 c 377 art 12 s 2

==40A.152

**40A.152 County conservation fee; account.**

Subdivision 1. **Fee.** A county that is a metropolitan county under section 473.121, subdivision 4, has allowed exclusive agricultural zones to be created under this chapter, or has elected to become an agricultural land preservation pilot county, shall impose an additional fee of \$5 per transaction on the recording or registration of a mortgage subject to the tax under section 287.05 and an additional \$5 on the recording or registration of a deed subject to the tax under section 287.21. One-half of the fee must be deposited in a special conservation account to be created in the county general revenue fund and one-half must be transferred to the commissioner of revenue for deposit in the state treasury pursuant to section 40A.151, subdivision 1.

Subd. 2. **Use of account.** Money from the county conservation account must be spent by the county to reimburse the county and taxing jurisdictions within the county for revenue lost under the conservation tax credit under section 273.119 or the valuation of agricultural preserves under section 473H.10. If expenditures from other county funds for the same purposes remain at least equal to the amount spent in the previous county budget year, money remaining in the account after the reimbursements are made may be spent for the following purposes:

(1) agricultural land preservation and conservation planning and implementation of official controls under this chapter or chapter 473H;

(2) soil conservation activities and enforcement of soil

loss ordinances;

(3) incentives for landowners who create exclusive agricultural use zones;

(4) payments to municipalities within the county for the purposes of clauses (1) to (3).

Subd. 3. **Transfer to state fund.** Money in the county conservation account that is not encumbered by the county within one year of deposit in the account must be transferred to the commissioner of revenue for deposit in the state treasury pursuant to section 40A.151, subdivision 1.

HIST: 1986 c 398 art 28 s 2; 1987 c 396 art 7 s 2,3; 2002 c 377 art 12 s 3,4

==40A.misc

40A.08 Repealed, 1991 c 345 art 2 s 69

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