

## The 2012 People's Stadium Bill: Laws 2012 Chapter 299

**Introduction:** On Thursday the Minnesota House and Senate passed the stadium bill. The Governor signed the bill into law on Monday, May 14. The bill includes provisions to establish a Minnesota Sports Facilities Authority (MSFA) as well as a legislative commission on sports facilities. The powers and duties of the MSFA and the legislative commission are defined in Article 1 of the law. Financing provisions related to the state of Minnesota and the City of Minneapolis are contained in Articles 2, 3, 4 and 6. Article 3 is specific to the Minneapolis financing and the section amends the convention center special law and contains a provision related to the city charter. Article 5 is entitled "Miscellaneous" and addresses such issues as a compulsive gambling report, a state sales tax exemption for materials and supplies used in the construction or improvement of facilities (sports, convention center or civic center) financed with local sales taxes of a city of the first class, and the use rules governing the use of the stadium for amateur sports and high school league tournaments.

This report outlines the sequence of approval and MSFA implementing provisions, the deal points of the use agreement between the MSFA and the Vikings, the financing provisions for the stadium and the general law authority for facilities proposed by cities of the first class. A separate memorandum regarding Article 3 has been prepared.

### 1. Approval and MSFA and Legislative Commission Implementing Provisions: Timeframes

- A) Local Approval.** Following enactment of the Act (May 14) the Minneapolis City Council has thirty days to approve "Article 3 Minneapolis Convention Center" The approval is to comply with the local approval requirements of special laws as required by Minnesota Statutes, section 645.021. The timeframe for approval is not without precedent. In 2011 the pension merger legislation also contained a timeframe for approval. (Article 3 Section 7)
  
- B) Appointments to the MSFA.** The MSFA will consist of 5 members. Two of the members and the chair will be appointed by the Governor and two appointed by the Mayor. The terms of the initial members will be staggered and subsequent appointments will be for four years. Therefore two of the original appointees will serve three year terms and the other two will have four year terms. The mayoral appointees may reside in the city and may be appointed officials of a political subdivision.

The MSFA's initial members must be appointed no later than thirty days after the date of enactment of the chapter. (Article 1 Section 11 Subdivision 1)

- C) Appointments to the Stadium Implementation Committee.** No later than 30 days after local approval, the city shall establish a stadium implementation committee. The

committee is charged to make recommendations on the design plans submitted for the stadium and stadium infrastructure, and related improvements. A similar committee was established to review the ball park plans and design. (Article 1 Section 20 subdivision 6)

- D) Establishment of Legislative Commission.** The Legislative Commission on Minnesota Sports Facilities is established to oversee the MSFA's operating and capital budgets.

The Commission will consist of 12 members - six from the House and Senate. Members will serve two-year terms. The legislative appointing authorities must make appointments as soon as possible after the opening of the 2013 regular session. Article 1 Section 1)

- E) Metropolitan Sports Facilities Commission Transition to MSFA.** Within ninety days of the enactment of the chapter the Metropolitan Sports Facilities Commission is required to pay its obligations, settle its accounts and transfer its remaining assets, liabilities and obligations to the authority for its purposes. (Article 1 Section 24)

## **2. Minnesota Sports Facilities Authority: Sports Facilities, Stadium Design and Construction.**

- A) Sports Facilities:** The Senate bill broadened the potential scope of the MSFA to include the operation, control and responsibility for not only the stadium but also the Target Center, Xcel Energy Center and Target Field. The city must make a request to the MSFA to have Target Center become a MSFA facility. The city and the MSFA will need to negotiate an agreement with respect to the transfer of obligations. Among the obligations are, but not limited to, revenue sources, debt, funding, operations, equipment, repair and replacements, capital improvements, reserves contracts and agreements. The city and the primary professional sports team tenant must make a joint recommendation to the authority. The MSFA must find that the inclusion of a facility will "not have a negative impact on the authority, the general fund, or become an obligation of the state." (Article 1 Section 12)

In addition to the possibility that Target Center and other similar venues can become part of the MSFA, the legislative commission is charged among its duties to create a management plan that alleviates booking and scheduling concerns regarding sports facilities and entertainment venues under the jurisdiction of the MSFA. (Article 1 Section 1)

- B) Stadium Design and Construction: City Role** In addition to the Implementation Committee discussed above (1.C) , the city may:

- Acquire and dispose of land, air rights and other property interests within the development area for the stadium and stadium infrastructure. (Article 1 Section 20 subd. 1)
- Make expenditures or grants for other costs incidental or necessary to further the purposes of this chapter and reimburse in whole or in part any entity that has granted or loaned or advanced funds to the city to further the purposes of the chapter. (Article 1 Section 20 subdivisions 4 and 5)
- Issue liquor licenses that are reasonably required for the premises of the stadium site. Article 1 Section 22)
- Impose the admissions and amusement tax (Laws 1969 Chapter 1092) on Viking games, Viking owned major league soccer or other team related events at the stadium. (Article 1 Section 23)

**3. Stadium Operations and Capital Improvements: Management Contract; Allocation of Operating Costs and the Capital Reserve and Game Day Revenues and Payments.**

- A) Management Contract.** The MSFA and the Vikings will mutually agree on a third party management company or individual to manage the stadium and certain major vendors to the stadium. The contract can be for a maximum of thirty years or the same term as the lease between the Vikings and the MSFA. (Article 1. Section 18 subd. 1)
- B) Allocation of Operating Costs.** The MFSFA must pay or caused to be paid all operating expenses of the stadium. Beginning January 1, 2016 or a date agreed to by the parties, the Vikings will pay \$8.5 million each year, increased by a three percent annual inflation rate as their portion of operating costs.. From 2016 through 2020, the State of Minnesota will pay \$6.0 million increased by a three percent annual inflation rate for operating expenses. The city of Minneapolis will assume the state's portion in 2021 and repay the state with interest for the prior years. The MSFA will be responsible for operating cost overruns.(Article 1 Section 18 Subd. 2)
- C) Allocation of Capital Reserve.** The MSFA is authorized to establish a capital reserve fund. The Vikings and the State of Minnesota/City of Minneapolis will each contribute \$1.5 million annually increased by three percent. The payments will begin in 2016. The city will assume the state payments in 2021 and repay the state for prior years' payments. (Article 1 Section 18 Subd 4)
- D) Game Day Revenues and Payments.** The Vikings in addition to the operating and capital reserve payments are responsible for all game day expenses for NFL football games, Viking -owned major league soccer games and other Viking sponsored event expenses within the stadium and stadium plaza areas. (Article 1 Section 18 Subd. 5)

**4. Length of Lease, Contributions of the Vikings, State and City for Stadium Construction, Cost Overruns, Retractable Roof and Environmental Requirements and Construction Goals.**

- A) Length of Lease.** The lease was originally proposed to be thirty years but during the legislative process it was increased to 40 years. Chapter 299 authorizes a lease of at least 30 years. The lease may also permit the Vikings to play up to three home games in the first fifteen years outside the United States. The same amount of international games may be played in the next fifteen years. (Article 1 Section 19 subd. 3)
- B) Construction Contributions.** The Vikings will contribute \$477 million towards the development and construction of the stadium. The state and city will contribute \$348.0 million and \$150.0 million respectively. The city and state share will be financed by \$498.0 million bond proceeds. The bond issue will be higher to reflect the costs of issuance, costs of credit enhancements, capitalized interest, and deposits to a reserve fund. The state funds will be in the form of appropriation bonds to be paid by revenue from electronic pull tabs and linked bingo. The state is authorized to issue up to \$600.0 million in bonds. (Article 1 Section 19 subd. 2 clause (a) - Vikings; Article 1 Section 15 subd. 4 Clause (b) - City and State; Article 2 Section 1 subd. 2 – State bonding)
- C) Cost Overruns.** Construction cost overruns are the responsibility of the successful bidder of the project and not the MSFA and the state. If the Vikings are authorized by the MSFA to build the stadium, the Vikings are responsible for cost overruns. (Article 1. Section 15 Sub. 4 clause (a))
- D) Retractable Roof.** The stadium may have a retractable roof but must not increase the city or state share of construction costs. Being aware of the possible impact on operating costs of the retractable roof, the legislation directs that “the design (retractable roof) must not result in a material increase in the operating or capital costs of the stadium, considering current collections and reserves.” (Article 1 Section 15 subd. 3 and Article 1 Section 18 subd. 4 clause (e))
- E) Environmental requirements and Construction Goals.** The MSFA must comply with environmental requirements. The MSFA is the responsible governmental unit (RGU) for an environmental impact statement (EIS), if one is necessary. If an EIS is required it does not need to consider stadium sites. The EIS must be determined to be adequate prior to starting construction on the stadium’s foundation. However stadium infrastructure and governmental approvals and permits as well as land acquisition and financing can begin. (Article 1 Section 19 subd. 7 and Article 1 Section 20 subd. 3)

The MSFA and Vikings are, to the extent practicable, to design and construct a stadium that is environmentally and energy efficient. The stadium should be able to qualify for Leadership in Energy and Environmental Design (LEED) certification or Green Building Green Globes certification. (Article 1 Section 19 subd. 11 clause (b)) To quantify energy savings the MSFA and the Vikings must work with the local utility companies to calculate energy savings. The legislation sets a goal of having a payback in energy savings within thirty years. The goal assumes that the payback will be attained by following the state's sustainable building guidelines. (Article 1 Section 19 subd. 11)

- 5. Hiring and Recruitment** The MSFA is required to “make every effort” to employ and to have the Vikings, the construction manager, subcontractors, vendors and concessionaires to:
- employ women and minority owned firms;
  - contract with an employment assistance firm preferably minority owned, or owned by a disabled individual or woman to develop an employment program to recruit, train and retain minorities for the stadium;
  - hold a job fair and recruit and advertise at the Minneapolis Urban League, Sabathani, American Indian OIC, Youthbuild and similar organizations.

Goals for construction contracts awarded to women and minority firms will be in a percentage at least equal to the minimum used for City of Minneapolis developments. The same numerical goal is established for the construction workforce and, in addition, the goal needs to include workers from city zip codes having the highest rates of poverty and unemployment. The section also includes a provision that directs the MSFA, the Vikings, or the vendors to allow present employees (Article 1 Section 17) an opportunity to work at the stadium.

- 6. Public and Affordable Access.** The MSFA is required to provide access to the stadium for community and civic events, and amateur sports in terms and type as current policies at the Metrodome. The MFSFA is also required to provide the Minnesota State High School League and the Minnesota Amateur Sports Commission with a specific number of days for events including the high school football and soccer championships. The agreement with the High School League is for at least seven days a year and the MSFA may not charge the High School League for use of the stadium. The Amateur Sports Commission may use the stadium for up to ten days per year but may be required to pay out-of-pocket expenses. (Article 1 Section 18 subd. 3 and Article 5 Section 7)

In addition to the public access provisions the lease or use agreement with the Vikings must include a set-aside of affordable tickets for professional sporting events. (Article 1 Section 19 subd.13)

- 7. Tax Exemptions for Stadium and Regional Facilities in Cities of the First Class Funded With Local Sales Taxes.**

- A) Stadium Sales and Property Tax Exemption.** The state has exempted public-owned facilities from property taxes. Despite attempts in the Senate to require the payment of property taxes the stadium is exempt from property taxes. The stadium is subject to special assessments. The property tax exemption does not apply to MFSA property that is leased for residential, business, or commercial development or to a restaurant that is open for business more than 200 days a year or other purposes different from those contemplated in Chapter 299. (Article 1 Section 21)
  - B) Sales Taxes for Building Materials. Stadium.** The materials and supplies used or consumed in the construction or improvement of the stadium are exempt from the State sales tax. The exemption is similar to prior exemptions in that the sales tax sunsets. The stadium sales tax exemption for supplies and equipment used in the stadium sunsets one year after the date of the first Vikings game played in the stadium. The exemption for materials and supplies used in public infrastructure expires five years after the issuance of the first appropriation bonds. (Article 1 Section 6)
  - C) Sales Tax for Building Materials. Cities of the First Class.** The bill includes a sales tax exemption for capital projects that have a total construction cost of least \$40.0 million within a 24 month period. The exemption requires the payment of the sales tax but it will be refunded by the state. (Article 5 Sections 2 through 6)
- 8. User Fees and Naming Rights.** During the legislative debate there were several amendments to include “user fees” in the stadium revenue stream. The Senate Tax Committee and the floor debate in the House and Senate included amendments regarding user fees. The amendments were not adopted. However, Chapter 299 does refer to user fees in relation to revenues to blink-on if the state revenues are insufficient to meet obligations and as a revenue source.
- A) User Fees.** The MSFA owns and retains the exclusive right to sell stadium builder’s licenses (personal seat licenses) in the stadium. The MSFA will retain the Vikings to act as its agent in marketing and selling the licenses. (Article 1 Section 19 subd. 14)
  - B) User Fees - Blink On.** Two revenue sources were authorized to be backup revenues for the stadium. One is a ten percent tax on the rental of suites and sky boxes in the stadium. The other is a sports themed game based on stadium or professional sports themes. The revenue from the games is expected to be \$2.1 million, at a minimum for the fiscal year. (Article 6)
  - C) Naming Rights.** The Vikings retain the naming rights for the stadium. The name or names must be approved by the MSFA. (Article 1 Section 19 subd. 4)

**9. Stadium Uses Other than Viking games.** The stadium could be used for other events such as concerts, non-Viking sporting events and civic events. The MSFA will receive all general ticket revenues and other event revenues from non-Viking sponsored events. Among the Viking sponsored events would be a Major League Soccer (MLS) franchise if it is owned by the Vikings. Chapter 299 provides the Vikings with a five year exclusive right to establish a MLS franchise. The timeframe begins on the date of the Vikings first home game in the stadium. The MLS team will pay rent and will be responsible for capital improvements needed for the MLS franchise. (Article 1 Section 19 subd. 15)

**10. Public Share on the sale of the Vikings (Clawback Provision).** The clawback provision was originally similar to that of the ball park law. Over a ten year period the public would receive a maximum of 18 percent of the gross sales price of the team. The percentage in the first year of the provision would be 18 percent and would decline by 1.8 percent each year over the ten year period. The proceeds of the provision would be deposited in a reserve fund for capital improvements or as approved by the ball park commission.

The clawback provision in Chapter 299 extends for twenty years and captures a percentage of the sales price minus the purchase price (increment) of the team. The schedule for the payment to the public follows:

- 25% of the increment if sold in first ten years after the effective date of the act.
- 15% for years 11 to 15
- 10% for years 16 to 20

The proceeds of the provision shall be paid to the state and city, in amounts proportionate to the expenditures made by the two entities for the purpose of this chapter. If any proceeds remain after payment to the city and state that amount must be deposited in the general fund.