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State of Minnesota

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HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 3035

- 02/03/2022 Authored by Hornstein, Petersburg, Albright, Hertaus, Nash and others
The bill was read for the first time and referred to the Committee on Transportation Finance and Policy
- 02/21/2022 Adoption of Report: Amended and re-referred to the Committee on State Government Finance and Elections
- 02/24/2022 Adoption of Report: Re-referred to the Committee on Ways and Means
- 02/28/2022 Adoption of Report: Placed on the General Register
Read for the Second Time
- 03/03/2022 Calendar for the Day, Amended
Read Third Time as Amended
Passed by the House as Amended and transmitted to the Senate to include Floor Amendments

1.1 A bill for an act

1.2 relating to transit; requiring the legislative auditor to conduct a special review or

1.3 program evaluation of the Southwest light rail transit project; requiring the

1.4 Metropolitan Council to provide updates; appropriating money.

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

1.6 Section 1. **SOUTHWEST LIGHT RAIL TRANSIT PROJECT REVIEW OR**

1.7 **EVALUATION.**

1.8 (a) The legislative auditor must conduct a special review, program evaluation, or a

1.9 combination of the two, of the Southwest light rail transit project.

1.10 (b) If the Legislative Audit Commission selects the Southwest light rail transit project

1.11 for a program evaluation, the legislative auditor is encouraged to include examination of:

1.12 the primary reasons for delays and cost increases in the project; whether the Metropolitan

1.13 Council properly managed the project's schedule and costs; and whether there was sufficient

1.14 Metropolitan Council scrutiny of the route decisions and design choices that have

1.15 subsequently required substantive changes to project costs or plans.

1.16 (c) As part of a special review or program evaluation of the Southwest light rail transit

1.17 project, the legislative auditor is encouraged to:

1.18 (1) evaluate whether current practices on project cost estimating, contracting, negotiations,

1.19 management processes, and hiring result in cost overruns or cause schedule delays;

1.20 (2) evaluate whether the Metropolitan Council's posting, interviewing, and hiring process

1.21 for internal staff resulted in qualified and competent project management personnel;

- 2.1 (3) evaluate whether the current practices on reviewing change orders, determining fair
2.2 pricing, and establishing credits for lump-sum bid prices are reasonable and appropriate;
- 2.3 (4) identify all changes to the project schedule and evaluate whether the changes were
2.4 reasonable and appropriate and impacted the project completion date;
- 2.5 (5) evaluate whether current practices on requiring, monitoring, and assuring quality of
2.6 construction and materials is sufficient;
- 2.7 (6) evaluate whether the methodology used by the Metropolitan Council to calculate the
2.8 requests for additional public funding for the project is reasonable, appropriate, and aligned
2.9 with standard engineering practice;
- 2.10 (7) evaluate whether the use of contingency funds is reasonable and appropriate;
- 2.11 (8) determine the balance in the contingency fund;
- 2.12 (9) determine the balance of available funding currently committed by Hennepin County
2.13 and other regional partners;
- 2.14 (10) evaluate potential financial impacts on Hennepin County if the Metropolitan Council
2.15 requests additional funding from the county beyond the existing contingency funding;
- 2.16 (11) determine the revised total project budget and analyze the level of financial risk of
2.17 any further changes to the project;
- 2.18 (12) determine the current overall project timeline and any specific deadlines or
2.19 benchmark dates, identify any currently proposed schedule changes, and determine whether
2.20 project changes are on a critical path;
- 2.21 (13) evaluate whether current penalties for missed deadlines or benchmarks are
2.22 appropriate and, where applicable, if they have been imposed for previously missed deadlines
2.23 or benchmarks;
- 2.24 (14) make recommendations on how the Metropolitan Council and Hennepin County
2.25 can best avoid additional cost overruns, minimize delays, manage risks, assure sufficient
2.26 construction quality, effectively address further changes, and increase public transparency
2.27 about the current cost and schedule for the project's completion;
- 2.28 (15) review the January 2022 settlement between the Metropolitan Council and the
2.29 project's prime construction contractor and evaluate whether the settlement was necessary
2.30 and appropriate;

3.1 (16) evaluate whether the Metropolitan Council, vendors, and contractors are adhering
3.2 to established safety standards, practices, and protocols in construction, emergency response,
3.3 operations, and maintenance; and

3.4 (17) perform a cost-benefit analysis of the project.

3.5 (d) The Metropolitan Council must not require any vendor or contractor to notify the
3.6 council of any requests or inquiries received by the vendor or contractor from the legislative
3.7 auditor pursuant to this section. The Metropolitan Council must not require any vendor or
3.8 contractor to provide to the council information the vendor or contractor provided to the
3.9 legislative auditor pursuant to this section.

3.10 (e) The Metropolitan Council must not discharge, discipline, threaten, otherwise
3.11 discriminate against, or penalize an employee of the council regarding the employee's
3.12 compensation, terms, conditions, location, or privileges of employment because the employee
3.13 participated in a special review or program evaluation described by this section. The
3.14 protections provided under this paragraph are in addition to any remedies or employee
3.15 protections otherwise provided by law.

3.16 (f) The Metropolitan Council must not request or require the reassignment or removal
3.17 of an employee of a contractor or vendor solely based on that employee's participation in
3.18 the review described by this section. The Metropolitan Council must not retaliate or take
3.19 adverse action against a vendor or contractor based solely on the fact that an employee of
3.20 the vendor or contractor participated in a special review or program evaluation described
3.21 by this section.

3.22 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.23 **Sec. 2. SOUTHWEST LIGHT RAIL TRANSIT; EXPENDITURES AND**
3.24 **SCHEDULE.**

3.25 (a) Annually by January 1 and July 1, the Metropolitan Council must provide status
3.26 updates on the Southwest light rail transit project to the chairs and ranking minority members
3.27 of the legislative committees with jurisdiction over transportation policy and finance. Each
3.28 status update must include:

3.29 (1) total expenditures on the project anticipated over the next six months; and

3.30 (2) any change in the date of anticipated project completion.

4.1 (b) The Metropolitan Council must immediately provide an update on the Southwest
4.2 light rail transit project to the chairs and ranking minority members of the legislative
4.3 committees with jurisdiction over transportation policy and finance, if:

4.4 (1) the total project cost is anticipated to increase by five percent or more above the
4.5 project cost determined as of the effective date of this section; or

4.6 (2) the anticipated date of project completion is delayed by six months or more.

4.7 **EFFECTIVE DATE.** This section is effective the day following final enactment.

4.8 Sec. 3. **APPROPRIATION.**

4.9 \$200,000 in fiscal year 2022 is appropriated from the general fund to the legislative
4.10 auditor for the purposes of any special review or program evaluation conducted pursuant
4.11 to section 1, including hiring additional staff or contracting with any necessary third parties.

4.12 This is a onetime appropriation and is available until June 30, 2023.

4.13 **EFFECTIVE DATE.** This section is effective the day following final enactment.