

A bill for an act

relating to environment; adding greenhouse gas reduction goals and strategies to various state and metropolitan programs and plans; establishing goals for per capita reduction in vehicle miles driven to reduce greenhouse gases; transferring money; amending Minnesota Statutes 2008, sections 103B.3355; 116D.04, by adding a subdivision; 123B.70, subdivision 1; 123B.71, subdivision 9; 473.121, by adding a subdivision; 473.145; 473.146, by adding a subdivision; 473.25; 473.856; 473.858, subdivisions 1, 2; 473.864, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 174.

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

Section 1. **LEGISLATIVE FINDINGS; IMPROVED LAND USE PLANNING TO ACHIEVE MANDATED REDUCTIONS IN GREENHOUSE GAS EMISSIONS.**

The legislature finds that changes in development patterns are necessary for Minnesota to achieve the greenhouse gas reduction goals provided in Minnesota Statutes, section 216H.02, subdivision 1. The legislature further finds that improved land use planning and development practices that target growth in ways that reduce the number and length of vehicle trips are necessary to achieve the greenhouse gas reduction goals provided in Minnesota Statutes, section 216H.02, subdivision 1.

Sec. 2. Minnesota Statutes 2008, section 103B.3355, is amended to read:

103B.3355 WETLAND FUNCTIONS FOR DETERMINING PUBLIC VALUES.

(a) The public values of wetlands must be determined based upon the functions of wetlands for:

(1) water quality, including filtering of pollutants to surface and groundwater, utilization of nutrients that would otherwise pollute public waters, trapping of sediments, shoreline protection, and utilization of the wetland as a recharge area for groundwater;

(2) floodwater and stormwater retention, including the potential for flooding in the watershed, the value of property subject to flooding, and the reduction in potential flooding by the wetland;

(3) public recreation and education, including hunting and fishing areas, wildlife viewing areas, and nature areas;

(4) commercial uses, including wild rice and cranberry growing and harvesting and aquaculture;

(5) fish, wildlife, native plant habitats;

(6) low-flow augmentation; ~~and~~

(7) carbon sequestration; and

~~(7)~~ (8) other public uses.

(b) The Board of Water and Soil Resources, in consultation with the commissioners of natural resources and agriculture and local government units, shall adopt rules establishing:

(1) scientific methodologies for determining the functions of wetlands; and

(2) criteria for determining the resulting public values of wetlands.

(c) The methodologies and criteria established under this section or other methodologies and criteria that include the functions in paragraph (a) and are approved by the board, in consultation with the commissioners of natural resources and agriculture and local government units, must be used to determine the functions and resulting public values of wetlands in the state. The functions listed in paragraph (a) are not listed in order of priority.

(d) Public value criteria established or approved by the board under this section do not apply in areas subject to local comprehensive wetland protection and management plans established under section 103G.2243.

(e) The Board of Water and Soil Resources, in consultation with the commissioners of natural resources and agriculture and local government units, may identify regions of the state where preservation, enhancement, restoration, and establishment of wetlands would have high public value. The board, in consultation with the commissioners, may identify high priority wetland regions using available information relating to the factors listed in paragraph (a). The board shall notify local units of government with water planning authority of these high priority regions.

EFFECTIVE DATE. This section is effective August 1, 2009, and applies to rulemaking that begins after that date.

Sec. 3. Minnesota Statutes 2008, section 116D.04, is amended by adding a subdivision to read:

Subd. 2c. **Greenhouse gases.** (a) This subdivision applies to land use and transportation-related development projects for which preparation of an environmental assessment worksheet is mandatory.

(b) Beginning January 1, 2010, environmental review documents prepared under this chapter or rules adopted under this chapter for projects that meet the requirements of paragraph (a) must consider greenhouse gas emissions.

(c) Nothing in this subdivision adds to, subtracts from, or modifies the obligation of a responsible governmental unit under this chapter to conduct environmental review because of the potential for significant environmental effects resulting from a project's greenhouse gas emissions.

(d) By November 1, 2009, the board shall develop a guidance document to aid responsible governmental units in implementing this subdivision. In developing the guidance document, the board shall consider published protocols for inventorying greenhouse gas emissions. The guidance document must include examples of mitigation measures for different types of projects.

(e) By November 1, 2009, the board shall provide an environmental assessment worksheet form consistent with this subdivision. The form must include analysis of greenhouse gas emissions, including project energy use and vehicle-related greenhouse gas emissions.

(f) For the purposes of this subdivision:

(1) "greenhouse gas emissions" means emissions of carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride from anthropogenic sources that result from a project; and

(2) "land use and transportation-related development projects" means projects described in Minnesota Rules, part 4410.4300, subparts 14, 17, 19, 21, 22, 32, 34, 36, and 37.

Sec. 4. Minnesota Statutes 2008, section 123B.70, subdivision 1, is amended to read:

Subdivision 1. **Commissioner approval.** (a) In determining whether to give a school facility a positive, negative, or unfavorable review and comment, the commissioner

must evaluate the proposals for facilities using the information provided under section 123B.71, subdivision 9.

(b) In the case of a proposal for a new school, the local school board retains the authority to determine the minimum acreage needed to accommodate the school and related facilities. The commissioner may evaluate the proposals but must not issue a negative or unfavorable review and comment under this section for a school facility solely based on too little acreage of the proposed school site.

(c) In the case of a proposal to renovate an existing school, the local school board retains the authority to determine whether to renovate an existing school or to build a new school regardless of the acreage of the current school site or the cost of the renovation relative to the cost of building a new school. The commissioner's evaluation of whether to replace a facility must not be solely based upon the ratio of renovation costs to the cost of replacement.

EFFECTIVE DATE. This section is effective for review and comments issued after July 1, 2009.

Sec. 5. Minnesota Statutes 2008, section 123B.71, subdivision 9, is amended to read:

Subd. 9. **Information required.** A school board proposing to construct a facility described in subdivision 8 shall submit to the commissioner a proposal containing information including at least the following:

(1) the geographic area and population to be served, preschool through grade 12 student enrollments for the past five years, and student enrollment projections for the next five years;

(2) a list of existing facilities by year constructed, their uses, and an assessment of the extent to which alternate facilities are available within the school district boundaries and in adjacent school districts;

(3) a list of the specific deficiencies of the facility that demonstrate the need for a new or renovated facility to be provided, and a list of the specific benefits that the new or renovated facility will provide to the students, teachers, and community users served by the facility;

(4) the relationship of the project to any priorities established by the school district, educational cooperatives that provide support services, or other public bodies in the service area;

(5) a description of the pedestrian, bicycle, and transit connections between the school and nearby residential areas that make it easier for children, teachers, and parents to get to the school by walking, bicycling, and taking transit;

5.1 ~~(5)~~ (6) a specification of how the project ~~will increase community use of the facility~~
5.2 maximizes the opportunity for cooperative use of existing park, recreation, and other
5.3 public facilities and whether and how the project will increase collaboration with other
5.4 governmental or nonprofit entities;

5.5 ~~(6)~~ (7) a description of the project, including the specification of site and outdoor
5.6 space acreage and square footage allocations for classrooms, laboratories, and support
5.7 spaces; estimated expenditures for the major portions of the project; and the dates the
5.8 project will begin and be completed;

5.9 ~~(7)~~ (8) a specification of the source of financing the project; the scheduled date
5.10 for a bond issue or school board action; a schedule of payments, including debt service
5.11 equalization aid; and the effect of a bond issue on local property taxes by the property
5.12 class and valuation;

5.13 ~~(8)~~ (9) an analysis of how the proposed new or remodeled facility will affect school
5.14 district operational or administrative staffing costs, and how the district's operating budget
5.15 will cover any increased operational or administrative staffing costs;

5.16 ~~(9)~~ (10) a description of the consultation with local or state ~~road and~~ transportation
5.17 officials on multimodal school site access and safety issues, and the ways that the project
5.18 will address those issues;

5.19 ~~(10)~~ (11) a description of how indoor air quality issues have been considered and a
5.20 certification that the architects and engineers designing the facility will have professional
5.21 liability insurance;

5.22 ~~(11)~~ (12) as required under section 123B.72, for buildings coming into service
5.23 after July 1, 2002, a certification that the plans and designs for the extensively renovated
5.24 or new facility's heating, ventilation, and air conditioning systems will meet or exceed
5.25 code standards; will provide for the monitoring of outdoor airflow and total airflow of
5.26 ventilation systems; and will provide an indoor air quality filtration system that meets
5.27 ASHRAE standard 52.1;

5.28 ~~(12)~~ (13) a specification of any desegregation requirements that cannot be met
5.29 by any other reasonable means;

5.30 ~~(13)~~ (14) a specification, ~~if applicable,~~ of how the facility will utilize environmentally
5.31 sustainable school facility design concepts; ~~and~~

5.32 ~~(14)~~ (15) a description of how the architects and engineers have considered
5.33 the American National Standards Institute Acoustical Performance Criteria, Design
5.34 Requirements and Guidelines for Schools of the maximum background noise level and
5.35 reverberation times; and

(16) any existing information from the relevant local unit of government about the cumulative costs to provide infrastructure to serve the school, such as utilities, sewer, roads, and sidewalks.

Sec. 6. **[174.015] REDUCING PER CAPITA VEHICLE MILES DRIVEN.**

Subdivision 1. **Definition.** "Per capita vehicle miles driven" means nonfreight motor vehicle miles driven per person per calendar year.

Subd. 2. **Reduction goal.** To help achieve an overall reduction in greenhouse gas emissions in Minnesota, the commissioner of transportation shall implement, and facilitate the implementation by other public and private entities of, policies that have the goal of achieving by 2025 at least a 15 percent reduction from 2005 levels of per capital vehicle miles driven. The implemented policies shall not mandate that individuals reduce their per capita vehicle miles driven.

Sec. 7. **[174.40] SENSIBLE COMMUNITIES GRANT PROGRAM.**

(a) The commissioner of transportation shall collaborate with the Minnesota Housing Finance Agency to seek funding through the United States Departments of Transportation and Housing and Urban Development sustainable communities partnership when that funding is available. The commissioner of transportation may use funds received from the sustainable communities partnership, or other funds available for planning assistance purposes, to make grants to regional and metropolitan planning organizations outside of the metropolitan area, as defined in section 473.121, subdivision 2, to provide resources and technical assistance to local governmental units for development, adoption, and implementation of plans and ordinances to implement the following strategies:

(1) providing citizens with safe and convenient transportation alternatives, such as transit, walking, and bicycling;

(2) increasing physical activity through community design changes that promote the convenience and safety of walking and bicycling;

(3) maximizing the efficiency and cost-effectiveness of public investments by prioritizing infrastructure maintenance and rehabilitation; and

(4) expanding lifecycle housing opportunities for all income levels, especially in job-rich jurisdictions.

(b) Recipients of sensible communities grants must report to the commissioner of transportation annually for five years following receipt of the grant on the planning activities undertaken and progress made to implement the strategies identified in paragraph (a).

Sec. 8. Minnesota Statutes 2008, section 473.121, is amended by adding a subdivision to read:

Subd. 37. **Per capita vehicle miles driven.** "Per capita vehicle miles driven" has the meaning given in section 174.015.

Sec. 9. Minnesota Statutes 2008, section 473.145, is amended to read:

473.145 DEVELOPMENT GUIDE.

The Metropolitan Council shall prepare and adopt, after appropriate study and such public hearings as may be necessary, a comprehensive development guide for the metropolitan area. It shall consist of a compilation of policy statements, goals, standards, programs, and maps prescribing guides for the orderly and economical development, public and private, of the metropolitan area. The comprehensive development guide shall recognize and encompass physical, social, or economic needs of the metropolitan area and those future developments which will have an impact on the entire area including but not limited to such matters as land use, parks and open space land needs, greenhouse gas reduction, the necessity for and location of airports, highways, transit facilities, public hospitals, libraries, schools, and other public buildings.

Sec. 10. Minnesota Statutes 2008, section 473.146, is amended by adding a subdivision to read:

Subd. 5. **Per capita vehicle miles driven reduction.** (a) By July 1, 2010, the council must adopt a policy statement supporting reducing per capita vehicle miles driven. The policy statement must set a goal of reducing regional per capita vehicle miles driven by at least 17 percent from 2005 levels by 2025. The policy statement must identify broad strategies relating to transportation and land use by which the goal may be accomplished. The council shall consider the policy analysis and recommendations in the Minnesota Climate Change Advisory Group's Report to the Minnesota Legislature, dated April 2008, and consult with the University of Minnesota Institute for the Environment and the University of Minnesota Center for Transportation Studies.

(b) By July 1, 2013, the council must:

(1) revise the metropolitan development guide and system plans to be consistent with the policy statement under paragraph (a) and to meet the goal for reducing per capita vehicle miles driven in the region;

(2) revise the comprehensive plan guidelines identified in section 473.854 to reflect the goal identified in paragraph (a). The council is encouraged to use the resources created

by the University of Minnesota under section 16, subdivision 1, to assist in updating the guidelines; and

(3) provide an estimate of the 2005 per capita vehicle miles driven for all local governmental units in the metropolitan area. The estimates should be based on the per capita vehicle miles driven of the residents of each governmental unit. The council is encouraged to work with the University of Minnesota Center for Transportation Studies to create these estimates.

Sec. 11. Minnesota Statutes 2008, section 473.25, is amended to read:

473.25 LIVABLE COMMUNITIES CRITERIA AND GUIDELINES.

(a) The council shall establish criteria for uses of the fund provided in section 473.251 that are consistent with and promote the purposes of this article and the policies of the Metropolitan Development Guide adopted by the council including, but not limited to:

(1) helping to change long-term market incentives that adversely impact creation and preservation of living-wage jobs in the fully developed area;

(2) creating incentives for developing communities to include a full range of housing opportunities;

(3) creating incentives to preserve and rehabilitate affordable housing in the fully developed area; and

(4) creating incentives for all communities to implement compact and efficient development.

(b) The council shall establish guidelines for the livable community demonstration account for projects that the council would consider funding with either grants or loans. The guidelines must provide that the projects will:

(1) interrelate development or redevelopment and transit;

(2) interrelate affordable housing and employment growth areas;

(3) intensify land use that leads to more compact development or redevelopment;

(4) involve development or redevelopment that mixes incomes of residents in housing, including introducing or reintroducing higher value housing in lower income areas to achieve a mix of housing opportunities; ~~or~~

(5) encourage public infrastructure investments which connect urban neighborhoods and suburban communities, attract private sector redevelopment investment in commercial and residential properties adjacent to the public improvement, and provide project area residents with expanded opportunities for private sector employment; or

(6) reduce greenhouse gas emissions through a reduction in per capita vehicle miles driven.

(c) The council shall establish guidelines governing who may apply for a grant or loan from the fund, providing priority for proposals using innovative partnerships between government, private for-profit, and nonprofit sectors.

(d) The council shall prepare an annual plan for distribution of the fund based on the criteria for project and applicant selection.

(e) The council shall prepare and submit to the legislature, as provided in section 3.195, an annual report on the metropolitan livable communities fund. The report must include information on the amount of money in the fund, the amount distributed, to whom the funds were distributed and for what purposes, and an evaluation of the effectiveness of the projects funded in meeting the policies and goals of the council. The report may make recommendations to the legislature on changes to Laws 1995, chapter 255.

Sec. 12. Minnesota Statutes 2008, section 473.856, is amended to read:

473.856 METROPOLITAN SYSTEM STATEMENTS; AMENDMENTS.

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

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

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

Within nine months after receiving a system statement for an amendment to a metropolitan system plan, and within ~~three years~~ 30 months after receiving a system statement issued in conjunction with the decennial review required under section 473.864, subdivision 2, each affected local governmental unit shall review its comprehensive plan to determine if an amendment is necessary to ensure continued conformity with metropolitan system plans. If an amendment is necessary, the governmental unit shall prepare the amendment and submit it to the council for review pursuant to sections 462.355, 473.175, and 473.851 to 473.871.

Sec. 13. Minnesota Statutes 2008, section 473.858, subdivision 1, is amended to read:

Subdivision 1. **No conflicting zoning, fiscal device, official control.** Within nine months following the receipt of a metropolitan system statement for an amendment to a metropolitan system plan and within ~~three years~~ 30 months following the receipt of a metropolitan system statement issued in conjunction with the decennial review required under section 473.864, subdivision 2, every local governmental unit shall have reviewed and, if necessary, amended its comprehensive plan in accordance with sections 462.355, 473.175, and 473.851 to 473.871 and the applicable planning statute and shall have submitted the plan to the Metropolitan Council for review pursuant to section 473.175. The provisions of sections 462.355, 473.175, and 473.851 to 473.871 shall supersede the provisions of the applicable planning statute wherever a conflict may exist. If the comprehensive municipal plan is in conflict with the zoning ordinance, the zoning ordinance shall be brought into conformance with the plan by local government units in conjunction with the review and, if necessary, amendment of its comprehensive plan required under section 473.864, subdivision 2. After August 1, 1995, a local government unit shall not adopt any fiscal device or official control which is in conflict with its comprehensive plan, including any amendments to the plan, or which permits activity in conflict with metropolitan system plans, as defined by section 473.852, subdivision 8. The comprehensive plan shall provide guidelines for the timing and sequence of the adoption of official controls to ensure planned, orderly, and staged development and redevelopment consistent with the comprehensive plan. For purposes of this section, a fiscal device or official control shall not be considered to be in conflict with a local government unit's comprehensive plan or to permit an activity in conflict with metropolitan system plans if such fiscal device or official control is adopted to ensure the planned, orderly, and staged development of urbanization or redevelopment areas designated in the comprehensive plan pursuant to section 473.859, subdivision 5.

Sec. 14. Minnesota Statutes 2008, section 473.858, subdivision 2, is amended to read:

Subd. 2. **Adjacent review, comment.** Local governmental units shall submit their proposed plans to adjacent governmental units, affected special districts lying in whole or in part within the metropolitan area, and affected school districts for review and comment at least ~~six months~~ 90 days prior to submission of the plan to the council and shall submit copies to them on the submission of the plan to the council. For minor plan amendments, the council may prescribe a shorter review and comment period, or may waive the review and comment period if the minor plan amendments involve lands that are not contiguous to other local governmental units.

Sec. 15. Minnesota Statutes 2008, section 473.864, subdivision 2, is amended to read:

Subd. 2. **Decennial review.** By ~~December 31, 1998~~ July 1, 2015, and at least once every ten years thereafter, each local governmental unit shall review and, if necessary, amend its entire comprehensive plan and its fiscal devices and official controls. Such review and, if necessary, amendment shall ensure that, as provided in section 473.865, the fiscal devices and official controls of each local government unit are not in conflict with its comprehensive plan. Upon completion of review and, if necessary, amendment of its comprehensive plan, fiscal devices, and official controls as required by this section, each local government unit shall either:

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

(b)(1) submit the entire updated comprehensive plan and amendment or amendments to its comprehensive plan necessitated by its review to the Metropolitan Council for review; and

(2) submit the amendment or amendments to its fiscal devices or official controls necessitated by its review to the Metropolitan Council for information purposes as provided by section 473.865.

Except as otherwise provided in this paragraph, local governments shall consider, in preparing their updated comprehensive plans, amendments to metropolitan system plans in effect on ~~December 31, 1996~~ January 1, 2013. For metropolitan system plans, or amendments thereto, adopted after ~~December 31, 1996~~ January 1, 2013, local governments shall review their comprehensive plans to determine if an amendment is necessary to conform to the metropolitan system plans. If an amendment is necessary, the local government shall prepare the amendment and submit it to the council for review by ~~September 30, 1999~~ April 1, 2016, or nine months after the council transmits the metropolitan system plan amendment to the local government, whichever is later.

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

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

12.1 Amendments to comprehensive plans of local governmental units shall be prepared,
12.2 submitted, and adopted in conformance with guidelines adopted by the Metropolitan
12.3 Council pursuant to section 473.854.

12.4 Sec. 16. **TRANSFER OF MONEY.**

12.5 **Subdivision 1. University of Minnesota Center for Transportation Studies.** The
12.6 Metropolitan Council must transfer \$500,000 from the metropolitan livable communities
12.7 fund to the Board of Regents of the University of Minnesota for the Center for
12.8 Transportation Studies to develop by July 1, 2011, resources for use by local governments
12.9 and the Metropolitan Council to identify land-use and transportation planning strategies
12.10 and processes to support the policy goal identified under Minnesota Statutes, section
12.11 473.146, subdivision 5. The resources should assist local communities and the
12.12 Metropolitan Council as they implement the policies under Minnesota Statutes, section
12.13 473.146, subdivision 5. The resources should take into account recent transportation
12.14 trends and be tailored to the specific trends within the Twin Cities. The Center for
12.15 Transportation Studies should identify and use existing information and models to the
12.16 extent they are useful and accurate. The Center for Transportation Studies is encouraged
12.17 to collaborate with the Metropolitan Council and local units of government willing and
12.18 interested in voluntary involvement with development and refinement of the resources.

12.19 **Subd. 2. University of Minnesota Center for Transportation Studies.** By
12.20 July 1, 2011, the Metropolitan Council must transfer \$250,000 from the metropolitan
12.21 livable communities fund to the Board of Regents of the University of Minnesota for the
12.22 Center for Transportation Studies to offer a series of voluntary training sessions and
12.23 outreach activities for staff from local governments in the Twin Cities and from the
12.24 Metropolitan Council who are interested in using the resources identified in subdivision 1
12.25 to help implement the policies under Minnesota Statutes, section 473.146, subdivision
12.26 5. The Center for Transportation Studies should also maintain a Web site that provides
12.27 information related to using the resources identified in subdivision 1.

12.28 **Subd. 3. University of Minnesota Center for Transportation Studies.** By July
12.29 1, 2013, the Metropolitan Council must transfer \$500,000 from the metropolitan livable
12.30 communities fund to the Board of Regents of the University of Minnesota for the Center
12.31 for Transportation Studies to offer voluntary technical assistance to local government staff
12.32 who are interested in using the resources identified in subdivision 1 to help implement the
12.33 policy goal under Minnesota Statutes, section 473.146, subdivision 5, including assistance
12.34 to communities on their comprehensive plan. The Center for Transportation Studies is

13.1 encouraged to evaluate and enhance the resources identified in subdivision 1 based on input
13.2 from the Metropolitan Council and local government staff that are using the resources.

13.3 Subd. 4. **Metropolitan Council.** By January 1, 2014, the Metropolitan Council
13.4 must use \$1,000,000 of the metropolitan livable communities fund to make grants to local
13.5 governments to support their work related to Minnesota Statutes, section 473.864.

13.6 Sec. 17. **APPLICATION.**

13.7 Sections 8 to 16 apply in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey,
13.8 Scott, and Washington.