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State of Minnesota

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HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 2055

- 03/04/2019 Authored by Lillie
The bill was read for the first time and referred to the Committee on Government Operations
- 03/13/2019 Adoption of Report: Placed on the General Register
Read for the Second Time
- 05/20/2019 Pursuant to Rule 4.20, returned to the Committee on Government Operations

1.1 A bill for an act

1.2 relating to state government; modifying provisions pertaining to historical societies;

1.3 amending Minnesota Statutes 2018, sections 138.081; 138.31, by adding a

1.4 subdivision; 138.34; 138.40; 138.665, subdivision 2; 138.666; 138.667; 138.763,

1.5 subdivision 1.

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

1.7 Section 1. Minnesota Statutes 2018, section 138.081, is amended to read:

1.8 **138.081 FEDERAL FUNDS, ACTS.**

1.9 Subdivision 1. **Department of Administration as agency to accept federal funds.** The

1.10 Department of Administration is hereby designated the state agency with power to accept

1.11 any and all money provided for or made available to this state by the United States of

1.12 America or any department or agency thereof for surveys, restoration, construction,

1.13 equipping, or other purposes relating to the State Historic ~~sites~~ Preservation Program in

1.14 accordance with the provisions of federal law and any rules or regulations promulgated

1.15 thereunder and are further authorized to do any and all things required of this state by such

1.16 federal law and the rules and regulations promulgated thereunder in order to obtain such

1.17 federal money.

1.18 Subd. 2. **Commissioner's responsibilities.** The commissioner as the state historic

1.19 preservation officer shall be responsible for the preparation, implementation and

1.20 administration of the State Historic Preservation Plan and shall administer the State Historic

1.21 Preservation Program authorized by the National Historic Preservation Act (United States

1.22 Code, title ~~16~~ 54, section ~~470~~ 300101 et seq. ~~as amended~~). The commissioner shall review

1.23 and approve in writing all grants-in-aid for architectural, archaeological and historic

2.1 preservation made by state agencies and funded by the state or a combination of state and
 2.2 federal funds in accordance with the State Historic Preservation Program.

2.3 Subd. 3. **Administration of federal act.** ~~The Department of Administration~~ Minnesota
 2.4 Historical Society is designated as the state agency to administer the provisions of the federal
 2.5 act providing for the preservation of historical and archaeological data, United States Code,
 2.6 title ~~46~~ 54, ~~sections 469 to 469C~~ section 312501, as amended, insofar as the provisions of
 2.7 the act provide for implementation by the state.

2.8 Sec. 2. Minnesota Statutes 2018, section 138.31, is amended by adding a subdivision to
 2.9 read:

2.10 Subd. 13a. **State Historic Preservation Office.** "State Historic Preservation Office"
 2.11 means the State Historic Preservation Office at the Department of Administration.

2.12 Sec. 3. Minnesota Statutes 2018, section 138.34, is amended to read:

2.13 **138.34 ADMINISTRATION OF THE ACT.**

2.14 The state archaeologist shall act as the agent of the state to administer and enforce the
 2.15 provisions of sections 138.31 to 138.42. Some enforcement provisions are shared with the
 2.16 society and the State Historic Preservation Office.

2.17 Sec. 4. Minnesota Statutes 2018, section 138.40, is amended to read:

2.18 **138.40 COOPERATION OF STATE AGENCIES; DEVELOPMENT PLANS.**

2.19 Subdivision 1. **Cooperation.** The Department of Natural Resources, the Department of
 2.20 Transportation, and all other state agencies whose activities may be affected, shall cooperate
 2.21 with the historical society, the State Historic Preservation Office, and the state archaeologist
 2.22 to carry out the provisions of sections 138.31 to 138.42 and the rules issued thereunder, but
 2.23 sections 138.31 to 138.42 are not meant to burden persons who wish to use state property
 2.24 for recreational and other lawful purposes or to unnecessarily restrict the use of state property.

2.25 Subd. 2. **Compliance, enforcement, preservation.** State and other governmental agencies
 2.26 shall comply with and aid in the enforcement of provisions of sections 138.31 to 138.42.
 2.27 Conservation officers and other enforcement officers of the Department of Natural Resources
 2.28 shall enforce the provisions of sections 138.31 to 138.42 and report violations to the ~~director~~
 2.29 ~~of the society~~ state archeologist. When archaeological or historic sites are known or, based
 2.30 on scientific investigations are predicted to exist on public lands or waters, the agency or
 2.31 department controlling said lands or waters shall use the professional services of

3.1 archaeologists from the University of Minnesota, Minnesota Historical Society, or other
3.2 qualified professional archaeologists, to preserve these sites. In the event that archaeological
3.3 excavation is required to protect or preserve these sites, state and other governmental agencies
3.4 may use their funds for such activities.

3.5 Subd. 3. **Review of plans.** When significant archaeological or historic sites are known
3.6 or, based on scientific investigations, are predicted to exist on public lands or waters, the
3.7 agency or department controlling said lands or waters shall submit construction or
3.8 development plans to the state archaeologist and the ~~director of the society~~ State Historic
3.9 Preservation Office for review prior to the time bids are advertised. The state archaeologist
3.10 and the ~~society~~ State Historic Preservation Office shall promptly review such plans and
3.11 within 30 days of receiving the plans shall make recommendations for the preservation of
3.12 archaeological or historic sites which may be endangered by construction or development
3.13 activities. When archaeological or historic sites are related to Indian history or religion, the
3.14 state archaeologist shall submit the plans to the Indian Affairs Council for the council's
3.15 review and recommend action.

3.16 Sec. 5. Minnesota Statutes 2018, section 138.665, subdivision 2, is amended to read:

3.17 Subd. 2. **Mediation Review process.** The state, state departments, agencies, and political
3.18 subdivisions, including the Board of Regents of the University of Minnesota, have a
3.19 responsibility to protect the physical features and historic character of properties designated
3.20 in sections 138.662 and 138.664 or listed on the National Register of Historic Places created
3.21 by Public Law 89-665. Before carrying out any undertaking that will affect designated or
3.22 listed properties, or funding or licensing an undertaking by other parties, the state department
3.23 or agency shall consult with the State Historic Preservation Office pursuant to ~~the society's~~
3.24 the State Historic Preservation Office's established procedures to determine appropriate
3.25 treatments and to seek ways to avoid and mitigate any adverse effects on designated or
3.26 listed properties. If the state department or agency and the State Historic Preservation Office
3.27 agree in writing on a suitable course of action, the project may proceed. If the parties cannot
3.28 agree, any one of the parties may request that the governor appoint and convene a mediation
3.29 task force consisting of five members, two appointed by the governor, the chair of the State
3.30 Review Board of the State Historic Preservation Office, the commissioner of administration
3.31 or the commissioner's designee, and one member ~~who is not an employee of the Minnesota~~
3.32 ~~Historical Society~~ appointed by the director of the Minnesota Historical Society. The two
3.33 appointees of the governor and ~~the one~~ of the director of the society shall be qualified by
3.34 training or experience in one or more of the following disciplines: (1) history; (2)
3.35 archaeology; and (3) architectural history. The mediation task force is not subject to the

4.1 conditions of section 15.059. This subdivision does not apply to section 138.662, subdivision
4.2 24, and section 138.664, subdivisions 8 and 111.

4.3 Sec. 6. Minnesota Statutes 2018, section 138.666, is amended to read:

4.4 **138.666 COOPERATION.**

4.5 The state, state departments and agencies, political subdivisions, and the Board of Regents
4.6 of the University of Minnesota shall cooperate with the Minnesota Historical Society and
4.7 the State Historic Preservation Office in safeguarding state historic sites and in the
4.8 preservation of historic and archaeological properties.

4.9 Sec. 7. Minnesota Statutes 2018, section 138.667, is amended to read:

4.10 **138.667 HISTORIC PROPERTIES; CHANGES.**

4.11 Properties designated as historic properties by sections 138.661 to 138.664 may be
4.12 changed from time to time, and the Minnesota Historical Society and the State Historic
4.13 Preservation Office shall notify the legislature of the need for changes, and shall make
4.14 recommendations to keep the state historic sites network and the state register of historic
4.15 places current and complete. The significance of properties proposed for designation under
4.16 section 138.663, subdivision 2, shall be documented under the documentation standards
4.17 established by the ~~Minnesota Historical Society~~ State Historic Preservation Office. ~~This~~
4.18 Documentation shall include the opinion of the Minnesota Historical Society for the historic
4.19 sites network under section 138.661, subdivision 3, or the State Historic Preservation Office
4.20 for the state register of historic places under section 138.663, subdivision 2, as to whether
4.21 the property meets the selection criteria.

4.22 Sec. 8. Minnesota Statutes 2018, section 138.763, subdivision 1, is amended to read:

4.23 Subdivision 1. **Membership.** There is a St. Anthony Falls Heritage Board consisting of
4.24 22 members with the director of the Minnesota Historical Society as chair. The members
4.25 include the mayor; the chair of the Hennepin County Board of Commissioners or the chair's
4.26 designee; the president of the Minneapolis Park and Recreation Board or the president's
4.27 designee; the superintendent of the park board; two members each from the house of
4.28 representatives appointed by the speaker, the senate appointed by the Rules Committee, the
4.29 city council, the Hennepin County Board, and the park board; one member each from the
4.30 preservation commission, the State Historic Preservation Office, Hennepin County Historical
4.31 Society, and the society; one person appointed by the park board; and two persons appointed
4.32 by the chair of the board.