

SENATE
STATE OF MINNESOTA
EIGHTY-SEVENTH LEGISLATURE **S.F. No. 1698**

(SENATE AUTHORS: DEKRUIF and Parry)

DATE	D-PG	OFFICIAL STATUS
02/02/2012	3709	Introduction and first reading Referred to Transportation
02/23/2012		Comm report: To pass as amended and re-refer to State Government Innovation and Veterans

A bill for an act

1.1 relating to transportation; limiting authority of commissioner of transportation to
1.2 adopt rules for county state-aid roads and municipal state-aid streets; abolishing
1.3 provision promoting complete streets policies for local road authorities;
1.4 amending Minnesota Statutes 2010, sections 162.02, subdivisions 1, 2, 10;
1.5 162.021, subdivision 1; 162.07, subdivision 2; 162.09, subdivisions 1, 2; 162.13,
1.6 subdivision 2; repealing Minnesota Statutes 2010, sections 162.02, subdivisions
1.7 3, 3a, 3b; 162.09, subdivisions 3, 3a; 162.155; 174.75, subdivision 4; Laws
1.8 2010, chapter 351, section 72; Minnesota Rules, parts 8820.2500; 8820.2700;
1.9 8820.3100, subparts 1, 2, 5, 6, 7a, 8, 9a, 10; 8820.3300; 8820.3400; 8820.4060;
1.10 8820.9920; 8820.9922; 8820.9926, subpart 1; 8820.9936; 8820.9946; 8820.9956;
1.11 8820.9961; 8820.9981; 8820.9986; 8820.9990; 8820.9995.

1.12
1.13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.14 Section 1. Minnesota Statutes 2010, section 162.02, subdivision 1, is amended to read:

1.15 Subdivision 1. **Creation.** There is created a county state-aid highway system which
1.16 must be established, located, constructed, reconstructed, improved, and maintained as
1.17 public highways by the counties ~~under rules not inconsistent with this section made and~~
1.18 ~~promulgated by the commissioner as provided in this chapter.~~ The counties are vested
1.19 with the rights, title, easements, and their appurtenances, held by or vested in any of the
1.20 towns or municipal subdivisions or dedicated to the public use prior to the time a road or
1.21 portion of a road is taken over by the county as a county state-aid highway.

1.22 Sec. 2. Minnesota Statutes 2010, section 162.02, subdivision 2, is amended to read:

1.23 Subd. 2. **Rules; advisory committee.** ~~(a) The rules shall be made and promulgated~~
1.24 ~~by the commissioner acting with the advice of a committee selected by the several county~~
1.25 ~~boards acting through the officers of the statewide association of county commissioners.~~
1.26 ~~The committee shall be composed of nine members so selected that each member shall~~

S.F. No. 1698, as introduced - 87th Legislative Session (2011-2012) [11-1449]

2.1 ~~be from a different state highway construction district. Not more than five of the nine~~
2.2 ~~members of the committee shall be county commissioners. The remaining members shall~~
2.3 ~~be county highway engineers. In the event that agreement cannot be reached on any rule,~~
2.4 ~~the commissioner's determination shall be final. The rules shall be printed and copies~~
2.5 ~~forwarded to the county engineers of the several counties. For the purposes of this section,~~
2.6 ~~the expedited process for adopting rules established in section 14.389 may be used.~~

2.7 ~~(b) Notwithstanding section 15.059, subdivision 5, the committee does not expire.~~

2.8 The commissioner shall adopt rules for establishment, location, designation, and
2.9 financial assistance to the county state-aid highway system. Such rules may not include
2.10 engineering or design standards for county state-aid highway construction, reconstruction,
2.11 and maintenance.

2.12 Sec. 3. Minnesota Statutes 2010, section 162.02, subdivision 10, is amended to read:

2.13 Subd. 10. **Abandonment or revocation.** County state-aid highways may be
2.14 abandoned, changed, or revoked by joint action of the county board and the commissioner.
2.15 If a county state-aid highway is established or located within the limits of a city, it shall
2.16 not be abandoned, changed, or revoked without the concurrence of the governing body of
2.17 such city; provided, that any county state-aid highway established or located within a city
2.18 may be abandoned, or revoked without concurrence if the city refuses or neglects for a
2.19 period of one year after submittal to approve plans for the construction of such highway
2.20 ~~which plans conform to the construction standards provided in the commissioner's rules.~~

2.21 Sec. 4. Minnesota Statutes 2010, section 162.021, subdivision 1, is amended to read:

2.22 Subdivision 1. **Establishment; rules.** (a) The commissioner shall establish a natural
2.23 preservation routes category within the county state-aid highway system.

2.24 (b) Natural preservation routes include those routes that possess particular scenic,
2.25 environmental, or historical characteristics, such as routes along lakes or through forests,
2.26 wetlands, or flood plains, that would be harmed by construction or reconstruction ~~meeting~~
2.27 ~~the engineering standards under section 162.07 or the rules adopted under that section.~~

2.28 (c) The commissioner shall adopt rules ~~establishing minimum construction and~~
2.29 ~~reconstruction standards~~ that address public safety and reflect the function, lower traffic
2.30 volume, and slower speed on natural preservation routes. ~~The rules may not establish~~
2.31 ~~standards for natural preservation routes that are higher than the standards for national~~
2.32 ~~forest highways within national forests and state park access roads within state parks.~~
2.33 ~~Design standards specifying the width of vehicle recovery areas on forest highways,~~
2.34 ~~forest and park roads, and on natural preservation routes must minimize harmful~~

3.1 ~~environmental impact.~~ Such rules may not include engineering or design standards for
3.2 natural preservation route construction, reconstruction, and maintenance.

3.3 Sec. 5. Minnesota Statutes 2010, section 162.07, subdivision 2, is amended to read:

3.4 Subd. 2. **Money needs defined.** For the purpose of this section, money needs
3.5 of each county are defined as the estimated total annual costs of constructing, over a
3.6 period of 25 years, the county state-aid highway system in that county. Costs incidental to
3.7 construction, or a specified portion thereof as set forth in the commissioner's rules may be
3.8 included in determining money needs. To avoid variances in costs due to differences in
3.9 construction policy, construction costs shall be estimated on the basis of the engineering
3.10 standards developed cooperatively by ~~the commissioner and~~ the county engineers of
3.11 the several counties.

3.12 Sec. 6. Minnesota Statutes 2010, section 162.09, subdivision 1, is amended to read:

3.13 Subdivision 1. **Creation; mileage limitation; rules.** (a) There is created a
3.14 municipal state-aid street system within statutory and home rule charter cities having
3.15 a population of 5,000 or more. The extent of the municipal state-aid street system for
3.16 a city shall not exceed:

3.17 (1) 20 percent of the total miles of city streets and county roads partially or totally
3.18 within the jurisdiction of that city; plus

3.19 (2) the mileage of all trunk highways reverted or turned back to the jurisdiction of
3.20 the city pursuant to law on and after July 1, 1965; plus

3.21 (3) the mileage of county highways reverted or turned back to the jurisdiction of the
3.22 city pursuant to law on or after May 11, 1994.

3.23 (b) For purposes of this subdivision, the total miles of city streets and county roads
3.24 within the jurisdiction of a city includes all miles of county highways turned back to that
3.25 city's jurisdiction on or after May 11, 1994.

3.26 (c) The system shall be established, located, constructed, reconstructed, improved,
3.27 and maintained as public highways partially or totally within such cities ~~under rules, not~~
3.28 ~~inconsistent with this section, made and promulgated by the commissioner as hereinafter~~
3.29 ~~provided.~~

3.30 Sec. 7. Minnesota Statutes 2010, section 162.09, subdivision 2, is amended to read:

3.31 Subd. 2. **Rules; advisory committee.** ~~(a) The rules shall be made and promulgated~~
3.32 ~~by the commissioner acting with the advice of a committee selected by the governing~~
3.33 ~~bodies of such cities, acting through the officers of the statewide association of municipal~~

S.F. No. 1698, as introduced - 87th Legislative Session (2011-2012) [11-1449]

4.1 ~~officials. The committee shall be composed of 12 members, so selected that there shall be~~
4.2 ~~one member from each state highway construction district and in addition one member~~
4.3 ~~from each city of the first class. Not more than six members of the committee shall be~~
4.4 ~~elected officials of the cities. The remaining members of the committee shall be city~~
4.5 ~~engineers. In the event that agreement cannot be reached on any rule the commissioner's~~
4.6 ~~determination shall be final. The rules shall be printed and copies forwarded to the clerks~~
4.7 ~~and engineers of the cities. For the purposes of this section, the expedited process for~~
4.8 ~~adopting rules established in section 14.389 may be used.~~

4.9 ~~(b) Notwithstanding section 15.059, subdivision 5, the committee does not expire.~~

4.10 The commissioner shall adopt rules for establishment, location, designation, and
4.11 financial assistance to the municipal state-aid street system. Such rules may not include
4.12 engineering or design standards for municipal state-aid street construction, reconstruction,
4.13 and maintenance.

4.14 Sec. 8. Minnesota Statutes 2010, section 162.13, subdivision 2, is amended to read:

4.15 Subd. 2. **Money needs defined.** For the purpose of this section money needs of each
4.16 city having a population of 5,000 or more are defined as the estimated cost of constructing
4.17 and maintaining over a period of 25 years the municipal state-aid street system in such
4.18 city. Right-of-way costs and drainage shall be included in money needs. Lighting costs
4.19 and other costs incidental to construction and maintenance, or a specified portion of such
4.20 costs, as set forth in the commissioner's rules, may be included in determining money
4.21 needs. When a county locates a county state-aid highway over a portion of a street in any
4.22 such city and the remaining portion is designated as a municipal state-aid street only the
4.23 construction and maintenance costs of the portion of the street other than the portions taken
4.24 over by the county shall be included in the money needs of the city. To avoid variances
4.25 in costs due to differences in construction and maintenance policy, construction and
4.26 maintenance costs shall be estimated on the basis of the engineering standards developed
4.27 cooperatively by ~~the commissioner and~~ the engineers, or a committee thereof, of the cities.

4.28 Sec. 9. **RULEMAKING; ELIMINATION OF ENGINEERING STANDARDS.**

4.29 (a) By December 31, 2011, the commissioner of transportation shall amend
4.30 Minnesota Rules to (1) eliminate any references to engineering and design standards
4.31 previously established by the commissioner under Minnesota Rules, chapter 8820; and (2)
4.32 identify approved engineering and design standards under Minnesota Rules, chapter 8820,
4.33 only as those standards developed by the several cities with respect to municipal state-aid
4.34 streets, or the several counties with respect to county state-aid highways.

5.1 (b) The rules adopted by the commissioner under paragraph (a) are exempt from
5.2 the rulemaking provisions of Minnesota Statutes, chapter 14. The rules are subject to
5.3 Minnesota Statutes, section 14.386, except that, notwithstanding paragraph (b) of that
5.4 section, the rules continue in effect until repealed or superseded by other law or rule.

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

5.6 Sec. 10. **REPEALER.**

5.7 (a) Minnesota Statutes 2010, sections 162.02, subdivisions 3, 3a, and 3b; 162.09,
5.8 subdivisions 3 and 3a; 162.155; and 174.75, subdivision 4, are repealed.

5.9 (b) Minnesota Rules, parts 8820.2500; 8820.2700; 8820.3100, subparts 1, 2, 5, 6,
5.10 7a, 8, 9a, and 10; 8820.3300; 8820.3400; 8820.4060; 8820.9920; 8820.9922; 8820.9926,
5.11 subpart 1; 8820.9936; 8820.9946; 8820.9956; 8820.9961; 8820.9981; 8820.9986;
5.12 8820.9990; and 8820.9995, are repealed.

5.13 (c) Laws 2010, chapter 351, section 72, is repealed.

162.02 COUNTY STATE-AID HIGHWAY SYSTEM.

Subd. 3. **Rules have force of law.** The rules shall have the force and effect of law upon compliance with the provisions of sections 14.05 to 14.28.

Subd. 3a. **Variances from rules and engineering standards.** (a) The commissioner may grant variances from the rules and from the engineering standards developed pursuant to section 162.021 or 162.07, subdivision 2. A political subdivision in which a county state-aid highway is located or is proposed to be located may submit a written request to the commissioner for a variance for that highway. The commissioner shall comply with section 174.75, subdivision 5, in evaluating a variance request related to a complete streets project.

(b) The commissioner shall publish notice of the request in the State Register and give notice to all persons known to the commissioner to have an interest in the matter. The commissioner may grant or deny the variance within 30 days of providing notice of the request. If a written objection to the request is received within seven days of providing notice, the variance shall be granted or denied only after a contested case hearing has been held on the request. If no timely objection is received and the variance is denied without hearing, the political subdivision may request, within 30 days of receiving notice of denial, and shall be granted a contested case hearing.

(c) For purposes of this subdivision, "political subdivision" includes (1) an agency of a political subdivision which has jurisdiction over parks, and (2) a regional park authority.

Subd. 3b. **Insurance standards.** When reviewing data and information for the development of safety improvements for trunk highways and state-aid projects, the commissioner of transportation may consider, among other things, the Insurance Institute for Highway Safety's findings in addition to standards contained in Department of Transportation manuals, American Association of State Highway and Transportation Officials manual on design of highways and streets, and other applicable federal publications.

162.09 MUNICIPAL STATE-AID STREET SYSTEM.

Subd. 3. **Rules have force of law.** The rules shall have the force and effect of law upon compliance with the provisions of sections 14.05 to 14.28.

Subd. 3a. **Variances from rules and engineering standards.** (a) The commissioner may grant variances from the rules and from the engineering standards developed pursuant to section 162.13, subdivision 2. A political subdivision in which a municipal state-aid street is located or is proposed to be located may submit a written request to the commissioner for a variance for that street. The commissioner shall comply with section 174.75, subdivision 5, in evaluating a variance request related to a complete streets project.

(b) The commissioner shall publish notice of the request in the State Register and give notice to all persons known to the commissioner to have an interest in the matter. The commissioner may grant or deny the variance within 30 days of providing notice of the request. If a written objection to the request is received within seven days of providing notice, the variance shall be granted or denied only after a contested case hearing has been held on the request. If no timely objection is received and the variance is denied without hearing, the political subdivision may request, within 30 days of receiving notice of denial, and shall be granted a contested case hearing.

(c) For purposes of this subdivision, "political subdivision" includes (1) an agency of a political subdivision which has jurisdiction over parks, and (2) a regional park authority.

162.155 RULES FOR VARIANCES.

The commissioner shall adopt rules, no later than January 1, 1980, in accordance with sections 15.041 to 15.052, setting forth the criteria to be considered by the commissioner in evaluating requests for variances under sections 162.02, subdivision 3a and 162.09, subdivision 3a. The rules shall include, but are not limited to, economic, engineering and safety guidelines. The engineering standards adopted pursuant to section 162.07, subdivision 2, or 162.13, subdivision 2, shall be adopted pursuant to the requirements of chapter 15 by July 1, 1980.

174.75 COMPLETE STREETS.

Subd. 4. **Local road authorities.** Local road authorities are encouraged, but not required, to create and adopt complete streets policies for their roads that reflect local context and goals.

APPENDIX

Repealed Minnesota Statutes: 11-1449

Nothing in this section may be construed to prohibit a local road authority from adopting a complete streets policy that incorporates or exceeds statutory complete streets principles.

Laws 2010, chapter 351, section 72

Sec. 72. COMPLETE STREETS REPORTS.

The commissioner of transportation shall submit to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over transportation policy and finance reports that:

(1) by January 15, 2011, summarize the department's complete streets initiatives, summarize steps taken to expedite and improve the transparency of the state-aid variance process related to complete streets, outline plans to develop and implement a complete streets policy, and identify any statutory barriers to complete streets implementation;

(2) by January 15, 2012, summarize the results of the collaboration under Minnesota Statutes, section 174.75, subdivision 3; identify modifications made to or recommended for protocols, guidance, standards, or other requirements to facilitate complete streets implementation; report status of development of complete streets performance indicators; outline other work planned related to the complete streets policy; and identify statutory recommendations to facilitate complete streets policy implementation; and

(3) by January 15, 2014, overview the department's implementation of complete streets policy; note updates to protocols, guidance, standards, or requirements; identify any recommendations for supporting local complete streets implementation under the state-aid standards variance process; and identify statutory recommendations to facilitate complete streets policy implementation.

The reports in clauses (1), (2), and (3) must be made available electronically and made available in print only upon request.