

SENATE
STATE OF MINNESOTA
EIGHTY-NINTH SESSION

S.F. No. 3368

(SENATE AUTHORS: KOENEN)

DATE	D-PG	OFFICIAL STATUS
03/31/2016	5423	Introduction and first reading Referred to Transportation and Public Safety
04/11/2016	5774a 5799	Comm report: To pass as amended Second reading
05/10/2016	6874a 6877	Special Order: Amended Third reading Passed
05/17/2016	7059 7059	Returned from House with amendment Senate not concur, conference committee of 3 requested
05/18/2016	7167	Senate conferees Koenen; Jensen; Dahms
05/19/2016	7207	House conferees Drazkowski; Fabian; Hertaus
05/21/2016	7285c 7288 7366	Conference committee report, delete everything Senate adopted CC report and repassed bill Third reading House adopted SCC report and repassed bill

A bill for an act

1.1
1.2 relating to transportation; modifying permit requirements for temporary use
1.3 of certain rights-of-way; amending Minnesota Statutes 2014, section 160.27,
1.4 by adding subdivisions; Minnesota Statutes 2015 Supplement, section 160.27,
1.5 subdivision 10.

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

1.7 Section 1. Minnesota Statutes 2015 Supplement, section 160.27, subdivision 10,
1.8 is amended to read:

1.9 Subd. 10. **Department of Transportation temporary permit for field application.**

1.10 (a) In connection with the use of ~~the road right-of-way of a road authority~~ controlled by
1.11 the commissioner, excluding on controlled-access highways under section 160.08, a
1.12 property owner or occupant of property ~~abutting the road right-of-way~~ may apply for a
1.13 permit for temporary placement, for up to 14 days, of a pressurized flexible force main for
1.14 the transport of manure for field application.

1.15 (b) The property owner or occupant must:

1.16 (1) identify the entire length of the right-of-way for use under the permit;

1.17 (2) place the force main within the backslope of the ~~road authority's~~ right-of-way
1.18 where possible;

1.19 (3) place pumping equipment outside the ~~road authority's~~ right-of-way; and

1.20 (4) meet all of the permit requirements identified by the ~~road authority~~ commissioner.

1.21 (c) Once the ~~road authority~~ commissioner has issued a permit, the property owner or
1.22 occupant may ~~install~~ place the force main over the length of the right-of-way from the
1.23 permittee's property to where the manure will be applied, irrespective of whether the
1.24 permittee is the owner or occupant of all property abutting the portion of the right-of-way
1.25 where the force main is to be ~~installed~~ placed.

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

2.2 Sec. 2. Minnesota Statutes 2014, section 160.27, is amended by adding a subdivision
2.3 to read:

2.4 Subd. 11. **Local road authority temporary permit for certain field application.**

2.5 A local road authority may, by ordinance, establish a permitting process to authorize the
2.6 placement of force mains within that road authority's rights-of-way. A local road authority
2.7 that has implemented a permitting process shall issue a permit to any property owner or
2.8 occupant who applies for a permit to place a force main within a right-of-way subject to
2.9 the road authority's control, for the purpose of transporting manure for field application by
2.10 means of a pressurized flexible force main if:

2.11 (1) the applicant submits a complete application at least five days prior to the day the
2.12 applicant intends to place the force main within the identified right-of-way;

2.13 (2) the applicant identifies the intended starting and end points and the intended
2.14 path of the placement;

2.15 (3) the identified right-of-way is not a controlled-access highway under section
2.16 160.08;

2.17 (4) the applicant provides his or her full name, address, and phone number where the
2.18 applicant can be reached during the time the force main is placed within the right-of-way
2.19 and any other contact information where the applicant can be reached after the force main
2.20 has been removed from the right-of-way;

2.21 (5) the applicant holds a valid commercial animal waste technician applicator license
2.22 under section 18C.430, including proof of insurance and financial responsibility;

2.23 (6) the applicant provides the intended dates the force main will be placed in the
2.24 right-of-way;

2.25 (7) the placement will not unreasonably interfere with maintenance activities
2.26 authorized by the road authority; and

2.27 (8) the force main placement will not unreasonably interfere with: (i) another
2.28 landowner or occupant's access to the owner or occupant's property, (ii) the safe use of
2.29 the right-of-way in which the force main is placed, or (iii) the safe use of any road that
2.30 must be crossed by the force main.

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

2.32 The section applies to permit applications submitted on or after adoption by the road
2.33 authority of a compliant permit system or 45 days after the effective date of this section,
2.34 whichever occurs first.

3.1 Sec. 3. Minnesota Statutes 2014, section 160.27, is amended by adding a subdivision
3.2 to read:

3.3 Subd. 12. **General authority for certain field application.** When the local road
3.4 authority has not adopted a permitting process under subdivision 11, an owner or occupant
3.5 may place a pressurized force main in a right-of-way if:

3.6 (1) the owner or occupant provides at least five days' notice to the local road
3.7 authority of the intent to place a force main within an identified right-of-way for which
3.8 the owner or occupant identifies the intended starting and end points and the path of the
3.9 intended placement, and provides the intended starting and ending dates the force main
3.10 will be placed in the right-of-way;

3.11 (2) the identified right-of-way is not a controlled-access highway under section
3.12 160.08;

3.13 (3) the owner or occupant provides his or her full name, address, and phone number
3.14 where the applicant can be reached during the time the force main is placed within the
3.15 right-of-way and any other contact information where the applicant can be reached after
3.16 the force main has been removed from the right-of-way;

3.17 (4) the owner or occupant holds a valid commercial animal waste technician
3.18 applicator license under section 18C.430, including proof of insurance and financial
3.19 responsibility;

3.20 (5) the road authority fails within the five-day notice period to notify the owner or
3.21 occupant of the road authority's scheduled maintenance activities that would be unduly
3.22 interfered with if the placement were to occur during the maintenance activity; and

3.23 (6) the force main placement will not unreasonably interfere with: (i) another
3.24 landowner or occupant's access to the owner or occupant's property, (ii) the safe use of
3.25 the right-of-way in which the force main is placed, or (iii) the safe use of any road that
3.26 must be crossed by the force main.

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

3.28 Sec. 4. Minnesota Statutes 2014, section 160.27, is amended by adding a subdivision
3.29 to read:

3.30 Subd. 13. **General regulations regarding certain field application.** The
3.31 following regulations shall apply when a force main is placed in a road right-of-way
3.32 under subdivision 10, 11, or 12:

3.33 (1) unless otherwise instructed by the commissioner in the case of a right-of-way
3.34 subject to the commissioner's control, or by the applicable local road authority, the force
3.35 main shall be placed to the extent possible in the backslope of the right-of-way;

4.1 (2) unless specifically instructed otherwise, the owner or occupant shall place all
 4.2 pumping equipment outside of the right-of-way;

4.3 (3) unless specifically authorized, the force main shall not be left in a right-of-way
 4.4 subject to the commissioner's control for greater than 14 days, and no more than 21
 4.5 days for a right-of-way subject to control by a local road authority. The duration that a
 4.6 force main may be placed in a right-of-way may be extended by the commissioner with
 4.7 regard to rights-of-way under the commissioner's control, or by the applicable local road
 4.8 authority if application delays are encountered due to weather, natural disaster, or declared
 4.9 public emergency;

4.10 (4) except for roads subject to the commissioner's control, no permit or notice shall
 4.11 be required under subdivision 11 or 12 if the placement of the force main is necessary to
 4.12 deal with emergency pumping activities created by flooding, natural disaster, or declared
 4.13 emergency. The owner or occupant shall make a good faith effort to notify the road
 4.14 authority of the emergency placement and operation of a force main under this provision.
 4.15 Any force main placed under the emergency conditions set forth in this provision shall
 4.16 be removed within three days following the end of the flood, natural disaster response,
 4.17 or declared emergency;

4.18 (5) the commissioner or applicable local road authority may remove or have
 4.19 removed, at the owner or occupant's expense, any force main remaining in a right-of-way
 4.20 after the authorized number of days allowed under this section;

4.21 (6) the owner or occupant shall be responsible for restoring the right-of-way to the
 4.22 preplacement condition, including the immediate cleanup of any spillage or leakage of
 4.23 manure into the right-of-way; and

4.24 (7) a road authority may, by ordinance, restrict the number of force mains
 4.25 simultaneously located in the same right-of-way.

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

4.27 Sec. 5. Minnesota Statutes 2014, section 160.27, is amended by adding a subdivision
 4.28 to read:

4.29 Subd. 14. **Causes of action against the road authority.** No city, county, or town
 4.30 road authority shall be subject to any cause of action arising from or related to the
 4.31 placement or operation of a pressurized flexible force main under this section.

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