

**CHAPTER 191—H.F.No. 1973**

*An act relating to transportation; regulating state highways in municipalities; making conforming changes; amending Minnesota Statutes 2000, sections 160.85, subdivision 3; and 161.1245, subdivision 4; proposing coding for new law in Minnesota Statutes, chapter 161; repealing Minnesota Statutes 2000, sections 161.17; 161.171; 161.172; 161.173; 161.174; 161.175; 161.176; 161.177; and 473.181, subdivision 1.*

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

**HIGHWAY CONSTRUCTION THROUGH MUNICIPALITIES**

Section 1. Minnesota Statutes 2000, section 160.85, subdivision 3, is amended to read:

Subd. 3. **APPROVAL.** No road authority and private operator may execute a development agreement without the approval of the final agreement by the commissioner. A road authority and private operator in the metropolitan area must obtain the approvals required in sections ~~161.171 to 161.177~~ 161.162 to 161.167 and 473.167, subdivision 1. Except as otherwise provided in sections 161.162 to 161.167, the governing body of a county or municipality through which a facility passes may veto the project within 30 days of approval by the commissioner.

Sec. 2. Minnesota Statutes 2000, section 161.1245, subdivision 4, is amended to read:

Subd. 4. **ROUTE NO. 396.** Notwithstanding ~~section 161.17~~ or other any state law to the contrary, the commissioner of transportation shall extend, without undue delay, the interstate route commonly known as I-35 by construction of Route No. 396 described in section 161.12 in accordance with federal regulations for receiving federal aid made available by the United States to the state of Minnesota for highway purposes.

Sec. 3. **[161.162] DEFINITIONS.**

Subdivision 1. APPLICABILITY. The terms in sections 161.162 to 161.167 have the meanings given them in this section and section 160.02.

Subd. 2. FINAL LAYOUT. (a) "Final layout" means geometric layouts and supplemental drawings that show the location, character, dimensions, access, and explanatory information about the highway construction or improvement work being proposed. "Final layout" includes, where applicable, traffic lanes, shoulders, trails, intersections, signals, bridges, approximate right-of-way limits, existing ground line and proposed grade line of the highway, turn lanes, access points and closures, sidewalks, speed zones, noise walls, transit considerations, auxiliary lanes, interchange locations, interchange types, sensitive areas, existing right-of-way, traffic volume and turning movements, location of stormwater drainage, location of municipal utilities, project schedule and estimated cost, and the name of the project manager.

(b) "Final layout" does not include a cost participation agreement. For purposes of this subdivision "cost participation agreement" means a document signed by the

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commissioner and the governing body of a municipality that states the costs of a highway construction project that will be paid by the municipality.

**Subd. 3. FINAL CONSTRUCTION PLAN.** “Final construction plan” means the set of technical drawings for the construction or improvement of a trunk highway provided to contractors for bids.

**Subd. 4. GOVERNING BODY.** “Governing body” means the elected council of a municipality.

**Subd. 5. MUNICIPALITY.** “Municipality” means a statutory or home rule charter city.

#### **Sec. 4. [161.163] HIGHWAY PROJECT REVIEW.**

**Subdivision 1. PROJECTS REQUIRING REVIEW.** Sections 161.162 to 161.167 apply only to projects that alter access, increase or reduce highway traffic capacity, or require acquisition of permanent rights-of-way.

**Subd. 2. TRAFFIC SAFETY MEASURES.** Nothing contained in sections 161.162 to 161.167 limits the power of the commissioner to regulate traffic or install traffic control devices or other safety measures on trunk highways located within municipalities regardless of their impact on access or traffic capacity or on the need for additional right-of-way.

**Subd. 3. CONSTRUCTION PROGRAM.** Nothing contained in sections 161.162 to 161.167 limits the commissioner’s discretion to determine priority and programming of trunk highway projects.

#### **Sec. 5. [161.164] FINAL LAYOUT APPROVAL PROCESS.**

**Subdivision 1. SUBMISSION OF FINAL LAYOUT.** Before proceeding with the construction, reconstruction, or improvement of any route on the trunk highway system lying within any municipality, the commissioner shall submit to its governing body a final layout and project report covering the purpose, route location, and proposed design of the highway. The final layout must be submitted as part of a report containing any supporting data that the commissioner deems helpful to the governing body in reviewing the final layout submitted. The supporting data must include a good faith cost estimate of all the costs in which the governing body is expected to participate. The final layout must be submitted before final decisions are reached so that meaningful early input can be obtained from the municipality.

**Subd. 2. GOVERNING BODY ACTION.** (a) Within 15 days of receiving a final layout from the commissioner, the governing body shall schedule a public hearing on the final layout. The governing body shall, within 60 days of receiving a final layout from the commissioner, conduct a public hearing at which the department of transportation shall present the final layout for the project. The governing body shall give at least 30 days’ notice of the public hearing.

(b) Within 90 days from the date of the public hearing, the governing body shall approve or disapprove the final layout in writing, as follows:

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(1) If the governing body approves the final layout or does not disapprove the final layout in writing within 90 days, in which case the final layout is deemed to be approved, the commissioner may continue the project development.

(2) If the final construction plans contain changes in access, traffic capacity, or acquisition of permanent right-of-way from the final layout approved by the governing body, the commissioner shall resubmit the portion of the final construction plans where changes were made to the governing body. The governing body must approve or disapprove the changes, in writing, within 60 days from the date the commissioner submits them.

(3) If the governing body disapproves the final layout, the commissioner may make modifications requested by the municipality, decide not to proceed with the project, or refer the final layout to an appeal board. The appeal board shall consist of one member appointed by the commissioner, one member appointed by the governing body, and a third member agreed upon by both the commissioner and the governing body. If the commissioner and the governing body cannot agree upon the third member, the chief justice of the supreme court shall appoint a third member within 14 days of the request of the commissioner to appoint the third member.

Subd. 3. APPEAL BOARD. Within 30 days after referral of the final layout, the appeal board shall hold a hearing at which the commissioner and the governing body may present the case for or against approval of the final layout referred. Not later than 60 days after the hearing, the appeal board shall recommend approval, recommend approval with modifications, or recommend disapproval of the final layout, making additional recommendations consistent with state and federal requirements as it deems appropriate. It shall submit a written report containing its findings and recommendations to the commissioner and the governing body.

## **Sec. 6. [161.165] COMMISSIONER ACTION; INTERSTATE HIGHWAYS.**

Subdivision 1. APPLICABILITY. This section applies to interstate highways.

Subd. 2. ACTION ON APPROVED FINAL LAYOUT. (a) If the appeal board recommends approval of the final layout or does not submit its findings and recommendations within 60 days of the hearing, in which case the final layout is deemed approved, the commissioner may prepare substantially similar final construction plans and proceed with the project.

(b) If the final construction plans change access, traffic capacity, or acquisition of permanent right-of-way from the final layout approved by the appeal board, the commissioner shall submit the portion of the final construction plans that shows the changes, to the governing body for its approval or disapproval under section 161.164, subdivision 2.

Subd. 3. ACTION ON FINAL LAYOUT APPROVED WITH CHANGES. (a) If, within 60 days, the appeal board recommends approval of the final layout with modifications, the commissioner may:

(1) prepare final construction plans with the recommended modifications, notify the governing body, and proceed with the project;

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(2) decide not to proceed with the project; or

(3) prepare final construction plans substantially similar to the final layout referred to the appeal board, and proceed with the project. The commissioner shall, before proceeding with the project, file a written report with the governing body and the appeal board stating fully the reasons for doing so.

(b) If the final construction plans contain changes in access or traffic capacity or require additional acquisition of permanent right-of-way from the final layout reviewed by the appeal board or the governing body, the commissioner shall resubmit the portion of the final construction plans that shows the changes, to the governing body for its approval or disapproval under section 161.164, subdivision 2.

**Subd. 4. ACTION ON DISAPPROVED FINAL LAYOUT.** (a) If, within 60 days, the appeal board recommends disapproval of the final layout, the commissioner may either:

(1) decide not to proceed with the project; or

(2) prepare final construction plans substantially similar to the final layout referred to the appeal board, notify the governing body and the appeal board, and proceed with the project. Before proceeding with the project, the commissioner shall file a written report with the governing body and the appeal board stating fully the reasons for doing so.

(b) If the final construction plans contain changes in access or traffic capacity or require additional acquisition of permanent right-of-way from the final layout reviewed by the appeal board or the governing body, the commissioner shall resubmit the portion of the final construction plans that shows the changes, to the governing body for its approval or disapproval under section 161.164, subdivision 2.

**Subd. 5. FINAL CONSTRUCTION PLANS ISSUED.** The commissioner shall send a complete set of final construction plans to the municipality at least 45 days before the bid opening for informational purposes.

**Sec. 7. [161.166] COMMISSIONER ACTION; OTHER HIGHWAYS.**

**Subdivision 1. APPLICABILITY.** This section applies to trunk highways that are not interstate highways.

**Subd. 2. ACTION ON APPROVED FINAL LAYOUT.** If the appeal board recommends approval of the final layout or does not submit its findings or recommendations within 60 days of the hearing, in which case the the final layout is deemed approved, the commissioner may prepare substantially similar final construction plans and proceed with the project. If the final construction plans change access or traffic capacity or require additional acquisition of right-of-way from the final layout approved by the appeal board, the commissioner shall submit the portion of the final construction plan that shows the changes, to the governing body for its approval or disapproval under section 161.164, subdivision 2.

**Subd. 3. ACTION ON FINAL LAYOUT APPROVED WITH CHANGES.** (a) If the appeal board approves the final layout with modifications, the commissioner may:

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(1) prepare final construction plans including the modifications, notify the governing body, and proceed with the project;

(2) decide not to proceed with the project; or

(3) prepare a new final layout and resubmit it to the governing body for approval or disapproval under section 161.164, subdivision 2.

(b) If the final construction plans contain changes in access or traffic capacity or require additional acquisition of permanent right-of-way from the final layout reviewed by the appeal board or the governing body, the commissioner shall resubmit the portion of the final construction plans that shows the changes, to the governing body for its approval or disapproval under section 161.164, subdivision 2.

**Subd. 4. ACTION ON DISAPPROVED FINAL LAYOUT.** If the appeal board disapproves the final layout, the commissioner may:

(1) decide not to proceed with the project; or

(2) prepare a new final layout and submit it to the governing body for approval or disapproval under section 161.164, subdivision 2.

**Subd. 5. FINAL CONSTRUCTION PLANS ISSUED.** The commissioner shall send a complete set of final construction plans to the municipality at least 45 days before the bid opening for informational purposes.

**Sec. 8. [161.167] REIMBURSEMENT OF EXPENSES.**

Members of the appeal board shall submit to the commissioner an itemized list of the expenses incurred in disposing of matters presented to them. The appeal board members shall be reimbursed for all reasonable expenses incurred by them in the performance of their duties. The commissioner shall pay these costs out of the trunk highway fund.

**Sec. 9. REPEALER.**

Minnesota Statutes 2000, sections 161.17; 161.171; 161.172; 161.173; 161.174; 161.175; 161.176; 161.177; and 473.181, subdivision 1, are repealed.

**Sec. 10. EFFECTIVE DATE.**

This act is effective the day following final enactment and applies to highway construction projects for which municipal approval is first sought after that date.

Presented to the governor May 23, 2001

Signed by the governor May 24, 2001, 2:02 p.m.

**CHAPTER 192—H.F.No. 2514**

*An act relating to agriculture; expanding emergency authority of the board of animal health to eradicate any dangerous, infectious, or communicable disease affecting domestic animals in*

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