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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 465

01/23/2017 Authored by Drazkowski, Haley, Pugh, O'Neill, Bahr, C., and others
The bill was read for the first time and referred to the Committee on Transportation and Regional Governance Policy
02/15/2017 Adoption of Report: Amended and re-referred to the Committee on Taxes

1.1 A bill for an act
1.2 relating to transportation; passenger rail; restricting expenditures and other powers
1.3 related to certain rail projects; requiring insurance for certain projects; proposing
1.4 coding for new law in Minnesota Statutes, chapters 16A; 16B; 117; 222; 459; 473.

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

1.6 Section 1. [16A.1246] NO SPENDING FOR CERTAIN RAIL PROJECTS.

1.7 (a) Except as provided in paragraph (b), no appropriation or other state money, whether
1.8 in the general or another fund, must be expended or used for any costs related to studying
1.9 the feasibility of, planning for, designing, engineering, acquiring property or constructing
1.10 facilities for or related to, or development or operation of intercity or interregional passenger
1.11 rail facilities or operations between the city of Rochester or locations in its metropolitan
1.12 area and any location in the metropolitan area, as defined in section 473.121, subdivision
1.13 2.

1.14 (b) The restrictions under this section do not apply to funds obtained from contributions,
1.15 grants, or other voluntary payments made by nongovernmental entities from private sources.

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

1.17 Sec. 2. [16B.2965] PROPERTY LEASED FOR RAIL PROJECTS.

1.18 (a) If a state official leases, loans, or otherwise makes available state lands, air rights,
1.19 or any other state property for use in connection with passenger rail facilities, as described
1.20 in section 16A.1246, the lease or other agreement must include or be secured by a security
1.21 bond or equivalent guarantee that allows the state to recover any costs it incurs in connection
1.22 with the rail project from a responsible third party or secure source of capital, if the passenger

2.1 rail facilities are not constructed, do not go into operation, or are abandoned, whether or
2.2 not the facilities began operations. The security bond or equivalent guarantee must remain
2.3 in place for the term of lease, loan, or other agreement that makes state property available
2.4 for use by the project. These costs include restoring state property to its original condition.

2.5 (b) For purposes of this section, "state official" includes the commissioner, the
2.6 commissioner of transportation, or any other state official with authority to enter a lease or
2.7 other agreement providing for use by a nonstate entity of state property.

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

2.9 Sec. 3. **[117.028] CONDEMNATION FOR CERTAIN RAIL FACILITIES**
2.10 **PROHIBITED.**

2.11 Notwithstanding section 222.27 or any other law to the contrary, no condemning authority
2.12 may take property for the development or construction of or for facilities related to intercity
2.13 or interregional passenger rail facilities or operations between the city of Rochester or
2.14 locations in its metropolitan area and any location in the metropolitan area, as defined in
2.15 section 473.121, subdivision 2.

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

2.17 Sec. 4. **[222.271] PASSENGER RAIL PROJECTS; ENVIRONMENTAL**
2.18 **INSURANCE REQUIRED.**

2.19 Subdivision 1. **Scope.** (a) This section applies to any person that seeks a federal or state
2.20 permit or other formal legal authorization to construct or operate a passenger rail project
2.21 with an estimated capital cost exceeding \$1,000,000,000.

2.22 (b) This section does not apply to a person whose only action within the scope of
2.23 paragraph (a) is an application for a building permit.

2.24 Subd. 2. **Definitions.** (a) For purposes of this section, unless the context clearly indicates
2.25 otherwise, the following definitions apply.

2.26 (b) "Commissioner" means the commissioner of the Pollution Control Agency.

2.27 (c) "Insurance" means a commercial insurance policy, a security bond, or an equivalent
2.28 guarantee that provides assurance of the project's ability to pay claims for any liability under
2.29 chapter 115B or similar provisions of common law or federal law resulting from construction
2.30 or operation of the passenger rail project.

3.1 (d) "Passenger rail project" or "project" means a railroad or a line or lines of a railway
3.2 located within or partly within Minnesota intended to provide passenger service, regardless
3.3 of whether freight service is also provided, by a common carrier other than a federal or state
3.4 government unit, a political subdivision of the state, or the National Railroad Passenger
3.5 Corporation created under the Rail Passenger Service Act of 1970, Public Law 91-518.

3.6 (e) "Person" includes a corporation, limited liability company, partnership, other entity,
3.7 or an individual.

3.8 Subd. 3. **Environmental insurance required.** (a) Any person subject to this section
3.9 must obtain and maintain insurance that is adequate to cover potential claims and meets the
3.10 other requirements of this section, as approved by the commissioner under paragraph (b).
3.11 The insurance must not contain dollar limits on liability, or if it does contain a dollar limit
3.12 the limit must be not less than a reasonable estimate of the potential exposure of the project
3.13 for environmental remediation or impairment damages. Any dollar limit must be adjusted
3.14 if the scope, size, or cost of the project increases materially. The insurance must cover any
3.15 liability incurred during and after the construction and operation of the project and must
3.16 not contain exclusions, limitations, or other restrictions that are not standard in comprehensive
3.17 environmental remediation insurance or in environmental impairment insurance, as
3.18 applicable.

3.19 (b) In order to satisfy the requirements of this section, the commissioner must determine
3.20 that the insurance is adequate and that it meets the other requirements of this section. The
3.21 commissioner may require that the project provide any supporting documentation to
3.22 determine that insurance is adequate and meets the other requirements of this section and
3.23 that the project has the financial ability to maintain insurance during the project's operations.

3.24 **EFFECTIVE DATE.** This section is effective for passenger rail projects for which
3.25 application for a permit or other formal legal authorization to construct is made after the
3.26 day following final enactment.

3.27 Sec. 5. **[459.36] NO SPENDING OF PUBLIC MONEY FOR CERTAIN RAIL**
3.28 **PROJECTS.**

3.29 (a) Except as provided in paragraph (b), no city, county, special taxing district, destination
3.30 medical center entity, or a metropolitan planning organization must spend or use any money
3.31 for any costs related to studying the feasibility of, planning for, designing, engineering,
3.32 acquiring property or constructing facilities for or related to, or development or operation
3.33 of intercity or interregional passenger rail facilities or operations between the city of
3.34 Rochester, or locations in its metropolitan area, and any location in the metropolitan area,

4.1 as defined in section 473.121, subdivision 2. The provisions of this section apply to the
4.2 statutory and home rule charter cities, special taxing districts, and counties located in
4.3 development regions 10 and 11, as designated under section 462.385, subdivision 1.
4.4 Destination medical center entity includes the Destination Medical Center Corporation and
4.5 agency as those terms are defined in section 469.40, and any successor or related entity.
4.6 Special taxing district has the meaning given in section 275.066.

4.7 (b) The restrictions under this section do not apply to:

4.8 (1) funds the city or county obtains from contributions, grants, or other voluntary
4.9 payments made by nongovernmental entities from private sources; and

4.10 (2) expenditures for costs of public infrastructure, including public utilities, parking
4.11 facilities, a multimode transit hub, or similar projects located within the area of the
4.12 development district, as defined under section 469.40, and reflected in the development
4.13 plan adopted before the enactment of this section, that are intended to serve, and that are
4.14 made following the completed construction and commencement of operation of privately
4.15 financed and operated intercity or interregional passenger rail facilities.

4.16 **EFFECTIVE DATE.** This section is effective the day following final enactment without
4.17 local approval under Minnesota Statutes, section 645.023, subdivision 1, clause (c).

4.18 **Sec. 6. [473.1467] NO SPENDING FOR CERTAIN RAIL PROJECTS.**

4.19 (a) Except as provided in paragraph (b), the council must not spend or use any money
4.20 for any costs related to studying the feasibility of, planning for, designing, engineering,
4.21 acquiring property or constructing facilities for or related to, or development or operation
4.22 of intercity or interregional passenger rail facilities or operations between the city of
4.23 Rochester or locations in its metropolitan area and any location in the metropolitan area, as
4.24 defined in section 473.121, subdivision 2.

4.25 (b) The restrictions under this section do not apply to funds the council obtains from
4.26 contributions, grants, or other voluntary payments made by nongovernmental entities from
4.27 private sources.

4.28 **EFFECTIVE DATE; APPLICATION.** This section is effective the day following
4.29 final enactment and applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey,
4.30 Scott, and Washington.