

## CHAPTER 174

### DEPARTMENT OF TRANSPORTATION

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**174.001 MS 2006 [Renumbered 15.001]**

**174.01 CREATION; POLICY.**

Subdivision 1. **Department created.** In order to provide a balanced transportation system, including aeronautics, highways, motor carriers, ports, public transit, railroads, and pipelines, a Department of Transportation is created. The department is the principal agency of the state for development, implementation, administration, consolidation, and coordination of state transportation policies, plans, and programs.

Subd. 2. **Transportation goals.** The goals of the state transportation system are as follows:

- (1) to provide safe transportation for users throughout the state;
- (2) to provide multimodal and intermodal transportation that enhances mobility and economic development and provides access to all persons and businesses in Minnesota while ensuring that there is no undue burden placed on any community;
- (3) to provide a reasonable travel time for commuters;
- (4) to provide for the economical, efficient, and safe movement of goods to and from markets by rail, highway, and waterway;
- (5) to encourage tourism by providing appropriate transportation to Minnesota facilities designed to attract tourists;
- (6) to provide transit services throughout the state to meet the needs of transit users;
- (7) to promote productivity through system management and the utilization of technological advancements;
- (8) to maximize the long-term benefits received for each state transportation investment;
- (9) to provide funding for transportation that, at a minimum, preserves the transportation infrastructure;
- (10) to ensure that the planning and implementation of all modes of transportation are consistent with the environmental and energy goals of the state;
- (11) to promote and increase the use of high-occupancy vehicles and low-emission vehicles;
- (12) to provide an air transportation system sufficient to encourage economic growth and allow all regions of the state the ability to participate in the global economy;
- (13) to increase transit use statewide by giving highest priority to the transportation modes with the greatest people-moving capacity and lowest long-term economic and environmental cost;

(14) to promote and increase bicycling as an energy-efficient, nonpolluting, and healthful form of transportation;

(15) to reduce greenhouse gas emissions from the state's transportation sector; and

(16) to accomplish these goals with minimal impact on the environment.

**History:** 1976 c 166 s 1; 1991 c 298 art 1 s 1; 2008 c 287 art 1 s 66

### 174.02 COMMISSIONER'S POWERS AND DUTIES.

Subdivision 1. **Appointment.** The department shall be supervised and controlled by the commissioner of transportation, who shall be appointed by the governor and serve under the provisions of section 15.06.

Subd. 1a. **Mission; efficiency; legislative report, recommendations.** It is part of the department's mission that within the department's resources the commissioner shall endeavor to:

(1) prevent the waste or unnecessary spending of public money;

(2) use innovative fiscal and human resource practices to manage the state's resources and operate the department as efficiently as possible;

(3) minimize the degradation of air and water quality;

(4) coordinate the department's activities wherever appropriate with the activities of other governmental agencies;

(5) use technology where appropriate to increase agency productivity, improve customer service, increase public access to information about government, and increase public participation in the business of government;

(6) utilize constructive and cooperative labor-management practices to the extent otherwise required by chapters 43A and 179A;

(7) report to the legislature on the performance of agency operations and the accomplishment of agency goals in the agency's biennial budget according to section 16A.10, subdivision 1; and

(8) recommend to the legislature appropriate changes in law necessary to carry out the mission and improve the performance of the department.

Subd. 2. **Unclassified positions.** The commissioner may establish four positions in the unclassified service at the deputy and assistant commissioner, assistant to commissioner or personal secretary levels. No more than two of these positions shall be at the deputy commissioner level.

Subd. 3. **Departmental organization; affirmative action.** (a) The commissioner shall organize the department in a manner recognizing the administrative and staffing needs of all modes of transportation within the commissioner's jurisdiction, and shall employ personnel as the

commissioner deems necessary to discharge the functions of the department.

(b) The commissioner shall adopt an affirmative action plan for the department in order to insure that department hiring encourages the selection of members of groups of persons who because of unfair or unlawful discriminatory practices have in the past been denied equal employment opportunity. This plan need not be promulgated as a rule, but it shall be approved by the commissioner of management and budget. The plan shall provide that the affected groups of persons shall constitute at least the same proportional number of employees in the department as they constitute in the total employment in state government; provided that this limitation shall expire in respect to an affected group when the commissioner of management and budget certifies that members of that affected group are employed in the department in the same proportion as they constitute in the total employment in state government.

Subd. 4. **Appearances on public transportation matters.** The commissioner may appear as a party on behalf of the public in any proceeding or matter before the Surface Transportation Board or any other agency or instrumentality of government that regulates public services or rates relating to transportation or other matters related to the powers and responsibilities of the commissioner as prescribed by law. The commissioner shall appear as a party on behalf of the public in proceedings as provided by law on matters that directly relate to the powers and duties of the commissioner or substantially affect the statewide transportation plan.

Subd. 5. **Cooperation.** To facilitate the development of a unified and coordinated intrastate and interstate transportation system:

(1) the commissioner shall maintain close liaison, coordination, and cooperation with the private sectors of transportation, the Upper Great Lakes Seaway Development Commission Corporation, and any multistate organization involved in transportation issues affecting the state;

(2) the commissioner shall participate in the planning, regulation, and development of the port authorities of the state;

(3) the commissioner or the commissioner's designee is a nonvoting member of the Metropolitan Airports Commission, as organized and established under sections 473.601 to 473.679;

(4) the commissioner shall cooperate with all federal agencies for the purpose of harmonizing state rules and federal regulations within the state to the extent and in the manner deemed advisable;

(5) the commissioner may conduct joint hearings with any federal agency within or outside the state and, to the extent allowed under federal law or regulation, may approve and establish freight rates and charges that depart from the distance principle required by any state law; and

(6) the commissioner may nominate members to any joint board as provided by federal acts.

Subd. 6. **Agreements, receipts, appropriation.** To facilitate the implementation of intergovernmental efficiencies, effectiveness, and cooperation, and to promote and encourage economic and technological development in transportation matters within and between governmental and nongovernmental entities:

(a) The commissioner may enter into agreements with other governmental or nongovernmental entities for research and experimentation; for sharing facilities, equipment, staff, data, or other means of providing transportation-related services; or for other cooperative programs that promote efficiencies in providing governmental services or that further development of innovation in transportation for the benefit of the citizens of Minnesota.

(b) In addition to funds otherwise appropriated by the legislature, the commissioner may accept and spend funds received under any agreement authorized in paragraph (a) for the purposes set forth in that paragraph, subject to a report of receipts to the commissioner of management and budget at the end of each fiscal year and, if receipts from the agreements exceed \$100,000 in a fiscal year, the commissioner shall also notify the governor and the Committee on Finance of the senate and the Committee on Ways and Means of the house of representatives.

(c) Funds received under this subdivision must be deposited in the special revenue fund and are appropriated to the commissioner for the purposes set forth in this subdivision.

Subd. 7. **Loans to commissioner.** The commissioner of transportation may apply for and receive loans, as defined in section 446A.085, subdivision 1, paragraph (d), from the transportation revolving loan fund created in section 446A.085, and may enter into agreements for the repayments of the loans.

**History:** 1976 c 166 s 2; 1977 c 305 s 23; 1980 c 534 s 13; 1980 c 617 s 47; 1986 c 444; 1993 c 266 s 28; 1995 c 248 art 11 s 12; 1998 c 366 s 58; 1999 c 230 s 17; 2001 c 213 s 11,12; 2008 c 204 s 42; 2008 c 287 art 1 s 67; 2009 c 101 art 2 s 109

**174.025** [Repealed, 1Sp2003 c 19 art 2 s 79]

## **174.03 DUTIES OF COMMISSIONER.**

Subdivision 1. **Statewide transportation plan; priorities; schedule of expenditures.** In order to best meet the present and future transportation needs of the public, to insure a strong state economy, to make most efficient use of public and private funds, to lessen adverse environmental impacts of the transportation sector, and to promote the more efficient use of energy and other resources for transportation purposes, the commissioner shall:

(1) three months after notification that the department is ready to commence operations and prior to the drafting of the statewide transportation plan, hold public hearings as may be appropriate solely for the purpose of receiving suggestions for future transportation alternatives and priorities for the state. The Metropolitan Council, regional development

commissions, and port authorities shall appear at the hearings and submit information concerning transportation-related planning undertaken and accomplished by these agencies. Other political subdivisions may appear and submit such information at the hearings. These hearings shall be completed no later than six months from the date of the commissioner's notification;

(2) develop, adopt, revise, and monitor a statewide transportation plan, taking into account the suggestions and information submitted at the public hearings held pursuant to clause (1). The plan shall incorporate all modes of transportation including bicycle commutation and recreation and provide for the interconnection and coordination of different modes of transportation. The commissioner shall evaluate all transportation programs and facilities proposed for inclusion in the plan in terms of economic costs and benefits, safety aspects, impact on present and planned land uses, environmental effects, energy efficiency, national transportation policies and priorities, and availability of federal and other financial assistance;

(3) based upon the statewide transportation plan, develop statewide transportation priorities and schedule authorized public capital improvements and other authorized public transportation expenditures pursuant to the priorities. As permitted by the federal Surface Transportation Program and subject to available funding, the commissioner shall give serious consideration to prioritizing for funding those trunk highway projects in the metropolitan area, as defined in section 473.121, subdivision 2, that are consistent with policies included in the Metropolitan Council's metropolitan development guide, transportation policy plan, and regional development framework, and that have been awarded funding through the federal Surface Transportation Program. In responding to an unforeseen, catastrophic event affecting the state transportation system, the commissioner may, upon written notification to the chairs of the senate and house of representatives committees with jurisdiction over transportation policy and finance, prioritize projects without regard to availability of federal funding; and

(4) complete the plan and priorities required by this subdivision no later than July 1, 1978. Upon completion of the plan and priorities, the commissioner shall prepare and periodically revise, as necessary, the schedule of authorized public transportation expenditures. The plan, priorities, and schedule are exempt from the provisions of the Administrative Procedure Act.

**Subd. 1a. Revision of state transportation plan.** The commissioner shall revise the state transportation plan by January 1, 1996, January 1, 2000, and, if the requirements of clauses (1) and (2) have been met in the previous revision, by January 1 of every third even-numbered year thereafter. Before final adoption of a revised plan, the commissioner shall hold a hearing to receive public comment on the preliminary draft of the revised plan. The revised state transportation plan must:

- (1) incorporate the goals of the state transportation system in section 174.01; and
- (2) establish objectives, policies, and strategies for achieving those goals.

Subd. 1b. **Statewide freight and passenger rail plan.** (a) The commissioner shall develop a comprehensive statewide freight and passenger rail plan to be included and revised as a part of the statewide transportation plan.

(b) Before the initial version of the plan is adopted, the commissioner shall provide a copy for review and comment to the chairs and ranking minority members of the senate and house of representatives committees with jurisdiction over transportation policy and finance. Notwithstanding paragraph (a), the commissioner may adopt the next revision of the statewide transportation plan, scheduled to be completed in calendar year 2009, prior to completion of the initial version of the comprehensive statewide freight and passenger rail plan.

Subd. 2. **Implementation of plan.** After the adoption and each revision of the statewide transportation plan, the commissioner shall take no action inconsistent with the revised plan.

Subd. 3. **Relationship with national and local plans.** The statewide plan shall recognize established national transportation policies. The plan shall include matters of local or regional concern if this inclusion is needed to insure a comprehensive, statewide perspective on transportation policies and priorities. The commissioner shall recognize and attempt to accommodate the local or regional transportation plans. However, the statewide plan shall supersede a local or regional plan to the extent inconsistent on a matter which the commissioner demonstrates is of statewide concern. A political subdivision may challenge the commissioner's determination that a portion of a local or regional plan is superseded by the statewide plan. The subdivision shall institute the challenge by filing a petition with the commissioner within 30 days after being notified by the commissioner that the local or regional plan is superseded. The challenge shall be resolved by the commissioner as a contested case pursuant to chapter 14.

Subd. 4. **Other duties.** The commissioner shall:

- (1) construct and maintain transportation facilities as authorized by law;
- (2) cooperate with, and may provide technical and financial assistance to, the Metropolitan Council and regional development commissions in the regional transportation planning process, in accordance with mutually acceptable terms and conditions;
- (3) cooperate with, and may provide planning and technical assistance upon the request of, any political subdivision or other governmental agency in accordance with mutually accepted terms and conditions, except as otherwise restricted by law; and
- (4) develop, revise, and monitor a statewide rail transportation plan as part of the statewide transportation planning process, including a study and evaluation of alternative methods for insuring adequate and economical transportation of agricultural commodities, supplies, and other goods to and from rural areas of the state. The plan shall include an analysis of rail lines in the state for the purpose of determining (i) eligibility of rail lines for assistance under federal and

state rail assistance programs, (ii) eligibility of rail lines for inclusion in the state rail bank, and (iii) the actions required by the state to insure the continuation of rail service that meets essential state needs and objectives.

Subd. 5. **Regional transportation planning.** The Metropolitan Council, pursuant to section 473.146, and the regional development commissions shall develop regional long-range transportation policy plans in cooperation with the commissioner and local units of government. Upon promulgation of the statewide transportation plan, and periodically as necessary thereafter, each regional policy plan shall be reviewed and amended, if necessary, by the appropriate regional agency to insure that the regional policy plan is not in conflict with the statewide transportation plan.

Subd. 5a. [Repealed, 1984 c 654 art 3 s 153]

Subd. 6. **Social, economic, and environmental effects.** The commissioner shall consider the social, economic, and environmental effects resulting from existing and proposed transportation facilities and shall make continuing efforts to mitigate any adverse effects. The commissioner shall utilize a systematic, interdisciplinary approach which shall insure the integrated use of the natural, social, and physical sciences and the environmental design arts in plans and decisions which may affect the environment.

Subd. 6a. **Economic analysis of nonhighway alternatives.** If the commissioner considers congestion pricing, tolls, mileage pricing, or public-private partnerships in order to meet the transportation needs of commuters in the department's metropolitan district between 2001 and 2020, the commissioner shall, in cooperation with the Metropolitan Council and the regional railroad authorities in the district, compare the economics of these financing methods with the economics of nonhighway alternatives for moving commuters. The commissioner shall analyze the economics as they relate to both individuals and to the transportation system.

Subd. 7. **Energy conservation.** The commissioner, in cooperation with the commissioner of commerce through the state energy office, shall evaluate all modes of transportation in terms of their levels of energy consumption. The commissioner of commerce shall provide the commissioner with projections of the future availability of energy resources for transportation. The commissioner shall use the results of this evaluation and the projections to evaluate alternative programs and facilities to be included in the statewide plan and to otherwise promote the more efficient use of energy resources for transportation purposes.

Subd. 8. **Salaries and expenses.** Salaries and expenses of the department relating to highway purposes shall be paid from moneys available in the trunk highway fund. The funds provided in sections 360.011 to 360.076 and 360.305 to 360.91 shall be expended by the commissioner of transportation in accordance with the purposes prescribed by those sections.



Funds appropriated pursuant to the authority conferred by any constitutional article shall be expended in conformity with the purposes and uses authorized thereby.

Subd. 9. **Forecast of revenues and expenditures.** In cooperation with the Department of Management and Budget and as required by section 16A.103, the commissioner shall prepare in February and November of each year a forecast of highway user tax distribution fund and trunk highway fund revenues and expenditures. The forecast must include an analysis of economic information and the potential impact on highway user fund revenues, historical growth rate information, and other variables affecting revenue assumptions and forecasted future growth rates. The forecast must include an analysis of trunk highway bonding and the necessary debt service payments, and assumptions regarding federal transportation funds. The commissioner shall review the forecast information with the chairs of the senate and house of representatives committees with jurisdiction over finance, ways and means, and transportation finance and with legislative fiscal staff no later than one week following the release of the forecast and shall inform the chairs and staff of changes made from previous forecasts.

Subd. 10. **Highway construction training; report.** (a) The commissioner of transportation shall utilize the maximum feasible amount of all federal funds available to this state under United States Code, title 23, section 140, paragraph (b), to develop, conduct, and administer highway construction training, including skill improvement programs.

(b) The commissioner of transportation must report by February 1 of each odd-numbered year to the house of representatives and senate committees having jurisdiction over transportation policy and finance concerning the commissioner's compliance with paragraph (a). The report must, with respect to each of the two previous calendar years:

(1) describe the highway construction training and skill improvement programs the commissioner has conducted and administered;

(2) analyze the results of the commissioner's training programs;

(3) state the amount of federal funds available to this state under United States Code, title 23, section 140, paragraph (b); and

(4) identify the amount spent by the commissioner in conducting and administering the programs.

Subd. 11. **Disadvantaged business enterprise program; report.** (a) The commissioner shall include in each contract that is funded at least in part by federal funds, a sanction for each contractor who does not meet the established project disadvantaged business enterprise goal or demonstrate good faith effort to meet the goal.

(b) The commissioner of transportation shall report by February 1 of each odd-numbered year to the house of representatives and senate committees having jurisdiction over transportation

policy and finance concerning the commissioner's disadvantaged business enterprise program. The report must, with respect to each of the two previous calendar years:

- (1) state the department's annual overall goal, compared with the percentage attained;
- (2) explain the methodology, applicable facts, and public participation used to establish the overall goal;
- (3) describe good faith efforts to meet the goal, if the goal was not attained;
- (4) describe actions to address overconcentration of disadvantaged business enterprises in certain types of work;
- (5) state the number of contracts that included disadvantaged business enterprise goals, the number of contractors that met established disadvantaged business enterprise goals, and sanctions imposed for lack of good faith effort; and
- (6) describe contracts with no disadvantaged business enterprise goals, and, of those, state number of contracts and amount of each contract with targeted groups under section 16C.16.

**History:** 1976 c 166 s 3; Ex1979 c 1 s 16; 1980 c 534 s 14; 1980 c 558 s 1; 1980 c 614 s 96; 1981 c 356 s 180; 1982 c 424 s 130; 1982 c 617 s 17,18; 1983 c 289 s 115 subd 1; 1987 c 186 s 15; 1987 c 312 art 1 s 10 subd 2; 1991 c 298 art 1 s 2,3; 1994 c 635 art 2 s 6; 1997 c 159 art 2 s 37; 1998 c 403 s 17,18; 1Sp2001 c 4 art 6 s 25; 1Sp2003 c 19 art 2 s 41; 2007 c 143 art 4 s 2; 2008 c 277 art 1 s 25; 2008 c 287 art 1 s 68-70; 2008 c 350 art 1 s 65,66; 2009 c 101 art 2 s 109

**174.031** [Repealed, 1Sp2003 c 19 art 2 s 79]

#### **174.04 FINANCIAL ASSISTANCE; APPLICATIONS; DISBURSEMENT.**

Subdivision 1. **Review of application.** Any state agency which receives an application from a regional development commission, metropolitan council, public transit commission, airport commission, port authority, or other political subdivision of the state, or any nonpublic organization, for financial assistance for transportation planning, capital expenditures, or operations to any state or federal agency, shall first submit the application to the commissioner of transportation. The commissioner shall review the application to determine whether it contains matters that substantially affect the statewide transportation plan and priorities. If the application does not contain such matters, the commissioner shall within 15 days after receipt return the application to the applicant political subdivision or nonpublic organization for forwarding to the appropriate agency. If the application contains such matters, the commissioner shall review and comment on the application as being consistent with the plan and priorities. The commissioner shall return the application together with comments within 45 days after receipt to the applicant political subdivision or nonpublic organization for forwarding with the commissioner's comments to the appropriate agency.

Subd. 2. **Designated agent.** A regional development commission, metropolitan council, public transit commission, airport commission, port authority, or any other political subdivision of the state, or any nonpublic organization, may designate the commissioner as its agent to receive and disburse funds by entering into an agreement with the commissioner prescribing the terms and conditions of the receipt and expenditure of the funds in accordance with federal and state laws, rules, and regulations.

Subd. 3. **Exceptions.** The provisions of this section shall not be construed as altering or amending in any way the funding procedures specified in section 161.36, 360.016 or 360.0161.

**History:** 1976 c 166 s 4; 1986 c 444; 1996 c 455 art 3 s 29

#### **174.05 POLLUTION CONTROL AGENCY; RULES AND STANDARDS.**

Subdivision 1. **Notification by Pollution Control Agency.** The commissioner of the Pollution Control Agency shall inform the commissioner of transportation of all activities of the Pollution Control Agency which relate to the adoption, revision, or repeal of any standard or rule concerning transportation established pursuant to section 116.07. Upon notification the commissioner shall participate in those activities. Participation may include, but is not limited to, access to all pertinent information collected or compiled by the Pollution Control Agency and transmittal to the commissioner of the Pollution Control Agency of information and expert opinions concerning the ability of affected modes of transportation to accomplish the desired objectives and the impact that alternative methods of attaining those objectives would have on present or planned transportation systems in the state.

Subd. 2. **Commissioner to submit review of proposed rules.** Prior to public hearings on any rule concerning transportation proposed by the Pollution Control Agency, the commissioner of transportation shall submit a written review of those rules, including an analysis of their impact upon the state's transportation system, and may propose alternative rules or standards. This report shall be made part of the record of the hearing and shall be made available to any person prior to the hearing.

Subd. 3. **Report by Pollution Control Agency.** Upon the adoption, revision or repeal of a rule concerning transportation, the commissioner of the Pollution Control Agency shall publish a written report of the manner in which the adopted rule reflects consideration of the factors specified in section 116.07, subdivision 6, and the specific issues raised in the commissioner of transportation's report.

**History:** 1976 c 166 s 5; 1985 c 248 s 70; 1987 c 186 s 15

#### **174.06 TRANSFER OF POWERS.**

Subdivision 1. **Department of Highways.** All powers, duties, and functions heretofore

vested in or imposed on the commissioner of highways or the Department of Highways by chapters 160, 161, 162, 163, 164, 165, 167, 169, 173, or sections 473.405 to 473.449 or any other law relating to the duties and powers of the commissioner of highways are transferred to, vested in, and imposed on the commissioner of transportation. The position of the commissioner of highways and the Department of Highways as heretofore constituted are abolished.

Subd. 2. **Department of Aeronautics.** All powers, duties, and functions heretofore vested in or imposed on the commissioner of aeronautics or the Department of Aeronautics by sections 360.011 to 360.076, 360.301 to 360.73, 360.81 to 360.91 or any other law relating to the duties and powers of the commissioner of aeronautics are transferred to, vested in, and imposed on the commissioner of transportation. The position of the commissioner of aeronautics and the Department of Aeronautics as heretofore constituted are abolished.

Subd. 3. **Department of Public Service.** All powers, duties, and functions heretofore vested in or imposed on the Department of Public Service, the Public Utilities Commission, or the commissioner of the Department of Public Service by sections 174.60 to 174.63 are transferred to, vested in, and imposed on the commissioner of transportation.

Subd. 4. [Repealed, 1977 c 454 s 49]

Subd. 5. **Transfer approval of commissioner of administration.** Any and all transfers of Department of Public Service personnel, records, and funds to the Department of Transportation, made pursuant to the provisions of this section, shall be subject to the approval of the commissioner of administration.

Subd. 6. [Repealed, 1981 c 253 s 48]

Subd. 7. **Proposals for implementation.** (a) It is the intent of the legislature that gas, oil, slurry, and other pipelines, long-distance conveyor belt systems, and other modes of transportation not now regulated by the state be constructed and operated in a manner that best serves the public good and complements other means of transportation.

(b) The commissioner of transportation shall submit to the governor and the legislature, no later than January 1, 1979, specific proposals, drafted in bill form if appropriate, to implement this policy within the areas of responsibility assigned to the Department of Transportation.

Subd. 8. **Recommendation for statutory revision.** The commissioner shall submit, together with the proposals required by subdivision 7, specific recommendations of language to update all statutory sections which relate to the operation of the department and are in need of revision. The commissioner's report shall give special consideration to sections affecting rulemaking and public hearings, to language or provisions rendered obsolete by passage of time,

and to overall clarity and brevity of the statutes.

**History:** 1976 c 166 s 6; 1977 c 124 s 1; 1980 c 614 s 123; 1986 c 444; 1987 c 186 s 15; 1993 c 13 art 2 s 1; 1999 c 86 art 1 s 43

#### **174.10 PROCEEDINGS INVOLVING CARRIERS.**

Subdivision 1. **Notice of contested case; fee.** The commissioner in any contested case that involves a motor carrier or common carrier by rail as a party shall give reasonable notice to representatives of associations or other interested groups or persons who have registered their names with the commissioner for that purpose, to all parties and to cities and municipalities that the commissioner deems to be interested in the proceeding. The commissioner may prescribe an annual fee as a charge to all registered groups or persons. The fee must be credited to the general fund. This charge is to cover the out-of-pocket costs involved in providing the notice.

Subd. 2. **Investigatory powers.** In all matters over which the commissioner has regulatory, or enforcement authority, the commissioner may issue subpoenas and compel the attendance of witnesses and the production of all necessary papers, books, records, documents, and other evidentiary material. Any person failing or refusing to appear to testify regarding any matter about which the person may be lawfully questioned or to produce any papers, books, records, documents, or other evidentiary materials in the matter to be heard, after having been required by a subpoena of the commissioner to do so may, upon application by the commissioner to the district court in any district, be ordered to comply therewith. An administrative law judge in a rulemaking or contested case proceeding may, on behalf of the commissioner, issue subpoenas, administer oaths to witnesses, and take their affirmations. Depositions may be taken within or without the state by the commissioner or the commissioner's designee in the manner provided by law for the taking of depositions in civil actions. A subpoena or other process or paper may be served upon any person named therein, anywhere within the state by any officer authorized to serve subpoenas or other process or paper in civil actions, with the same fees and mileage and in the same manner as prescribed by law for service of process issued out of the district court of this state.

Subd. 3. **Prosecution.** In proceedings that involve a motor carrier or common carrier by rail as a party, the matter must be heard by the commissioner as authorized by law.

Subd. 4. **Lack of jurisdiction.** If, in any proceeding the commissioner decides that the department does not have jurisdiction, the commissioner shall issue an order dismissing the proceeding and stating the ground of the dismissal.

**History:** 1976 c 166 s 8; 1980 c 534 s 15-17; 1984 c 640 s 32; 1986 c 444; 2001 c 213 s 13-15

### **174.11 COMMISSIONER TO NOTIFY COUNTY AUDITOR OF PROPERTY ACQUISITIONS.**

Upon acquisition of any taxable real property, the commissioner must notify the county auditor of the county where the property is located that the property has been acquired.

**History:** *1Sp2005 c 3 art 1 s 2*

## **VALUE ENGINEERING PROPOSALS**

### **174.14 VALUE ANALYSIS OF PROJECT; POLICY.**

The legislature finds that the application of the principles and techniques of value analysis in reducing the cost of state construction projects is in the interest of the efficient operation of state government. It is therefore the policy of the legislature to support, encourage, and, where necessary, authorize the application of some or all of those principles by agencies and departments of the state.

**History:** *1977 c 251 s 1*

### **174.15 DEFINITIONS.**

Subdivision 1. **Scope.** For the purposes of sections 174.14 to 174.17, and unless a different meaning is indicated by the context, the terms defined in this section have the meanings given them.

Subd. 2. **Construction project.** "Construction project" means any state construction project undertaken by the Department of Transportation.

Subd. 3. **Value analysis.** "Value analysis" means the systematic and creative functional analysis of construction projects, specifications, standards, practices and procedures for the purposes of identifying and eliminating unnecessary costs by developing modifications which satisfy required functions of a project for the lowest cost in a manner consistent with requirements for performance, reliability, quality and maintainability.

Subd. 4. **Value engineering proposal.** "Value engineering proposal" means a formal written proposal with supporting documentation. A value engineering proposal shall be developed by application of value analysis principles, shall be documented by a contractor or subcontractor pursuant to the provisions of the construction contract, and shall suggest one or more changes in the construction project, specifications, standards, practices, or procedures which would result in direct and immediate net savings in terms of reducing the costs of the construction contract.

**History:** *1977 c 251 s 2*

**174.16 CONTRACT TO INCLUDE VALUE ANALYSIS AUTHORIZATION.**

All contracts for construction projects may contain contract provisions which:

(1) authorize the contractor, with regard to specified matters governed by the contract, and any subcontractor, with regard to matters governed by the subcontracting agreement with the contractor, to submit value engineering proposals as provided in sections 174.15 to 174.17;

(2) specify such procedural and substantive requirements for the preparation, development and documentation for value engineering proposals as may be required for the particular construction project;

(3) require that copies of all value engineering proposals and all supporting documents be submitted to the commissioner of transportation; and

(4) provide that if a value engineering proposal is adopted for the construction project contract as provided in section 174.17, a supplemental agreement shall reduce contract payments to the contractor or subcontractor that submitted the value engineering proposal, by an amount equal to one-half of the amount of direct and immediate net savings under the contract resulting from the adoption of the value engineering proposal.

**History:** 1977 c 251 s 3

**174.17 EVALUATION OF VALUE ENGINEERING PROPOSALS.**

Subdivision 1. **Investigate, analyze, and estimate savings.** After receipt of a value engineering proposal and supporting documents, the commissioner of transportation shall investigate and analyze the value engineering proposal, estimate the amount of the direct and immediate net savings in terms of construction project contract costs which would result upon adoption of the value engineering proposal.

Subd. 2. **Approval.** Subject to the provisions of sections 174.15 to 174.17 and the provisions of any other applicable law, if the commissioner of transportation determines, based upon the reports and recommendations of the department, that adoption of a value engineering proposal will result in direct and immediate savings in the construction project contract costs, the commissioner shall approve and authorize the adoption of the implementing supplemental agreement and the supplemental agreement shall be processed and adopted as otherwise provided by law.

**History:** 1977 c 251 s 4; 1986 c 444

## HIGHWAY CONTRACT BIDS AND NOTICE, GENERALLY

### 174.18 ADVERTISEMENT OF HIGHWAY CONTRACT.

Notwithstanding anything in chapter 16C to the contrary, all contracts for the repair, improvement, maintenance, or construction of highways or highway bridges must be advertised and let as provided by law for highway construction contracts.

**History:** 1998 c 386 art 1 s 32

### 174.185 PAVEMENT LIFE-CYCLE COST ANALYSIS.

Subdivision 1. **Definitions.** For the purposes of this section, the following definitions apply.

(a) "Life-cycle cost" is the sum of the cost of the initial pavement project and all anticipated costs for maintenance, repair, and resurfacing over the life of the pavement. Anticipated costs must be based on Minnesota's actual or reasonably projected maintenance, repair, and resurfacing schedules, and costs determined by the Department of Transportation district personnel based upon recently awarded local projects and experience with local material costs.

(b) "Life-cycle cost analysis" is a comparison of life-cycle costs among competing paving materials using equal design lives and equal comparison periods.

Subd. 2. **Required analysis.** For each project in the reconditioning, resurfacing, and road repair funding categories, the commissioner shall perform a life-cycle cost analysis and shall document the lowest life-cycle costs and all alternatives considered. The commissioner shall document the chosen pavement strategy and, if the lowest life cycle is not selected, document the justification for the chosen strategy. A life-cycle cost analysis is required for projects to be constructed after July 1, 2011. For projects to be constructed prior to July 1, 2011, when feasible, the department will use its best efforts to perform life-cycle cost analyses.

Subd. 3. **Report.** The commissioner shall report annually to the chairs and ranking minority members of the senate and house of representatives committees with jurisdiction over transportation finance beginning on January 1, 2012, the results of the analyses required in subdivision 2.

**History:** 2008 c 287 art 1 s 71

## UNDERGROUND FUEL TANKS

### 174.19 PETROLEUM STORAGE TANKS.

Specifications issued by the commissioner of transportation relating to the procurement of underground fuel storage tanks by the Department of Transportation and used by the department must be written in such a way that they include all types of fiberglass and steel underground storage tanks that have been approved by the Minnesota Pollution Control Agency and the United



States Environmental Protection Agency for underground storage of fuel, or meet the standards for tank approval established by those agencies.

**History:** *1999 c 88 s 1*

## **HIGH-OCCUPANCY AND ALTERNATIVE TRANSPORTATION**

### **174.21 PUBLIC TRANSIT ASSISTANCE AND TRANSPORTATION MANAGEMENT; PURPOSE.**

It is the purpose of sections 174.21 to 174.27 to:

- (1) provide access to transit for persons who have no alternative mode of transit available;
- (2) increase the efficiency and productivity of public transit systems;
- (3) alleviate problems of automobile congestion and energy consumption and promote desirable land use where such activities are cost-effective;
- (4) maintain a state commitment to public transportation; and
- (5) meet the needs of individual transit systems to the extent they are consistent with the other objectives stated above.

**History:** *1977 c 454 s 18; 1978 c 793 s 66; 1982 c 586 s 1*

### **174.22 DEFINITIONS.**

Subdivision 1. **Scope.** For the purposes of sections 174.21 to 174.27 the following terms have the meanings given them.

Subd. 2. **Commuter van.** "Commuter van" means a motor vehicle used in a ride-sharing arrangement and used principally to provide prearranged transportation of persons for a fee to or from their place of employment or to or from a transit stop authorized by a local transit authority:

- (1) when the vehicle is operated by a person who does not drive the vehicle for that person's principal occupation but is driving it only to or from that person's principal place of employment or to or from a transit stop authorized by a local transit authority; or
- (2) when the vehicle is operated for personal use at other times by an authorized driver.

Subd. 2a. [Renumbered subd 2c]

Subd. 2b. **Elderly and disabled service.** "Elderly and disabled service" means transportation service provided on a regular basis in urbanized or large urbanized areas and designed exclusively or primarily to serve individuals who are elderly or disabled and unable to use regular means of public transportation.

Subd. 2c. **Metropolitan area.** "Metropolitan area" has the meaning given it in section 473.121.

Subd. 3. **Metropolitan Council.** "Metropolitan Council" means the council established by section 473.123.

Subd. 4. [Repealed, 1994 c 628 art 3 s 209]

Subd. 5. **Operating deficit.** "Operating deficit" means the amount by which the total prudent operating expenses incurred in the operation of the public transit system exceeds the amount of operating revenue derived from the system.

Subd. 6. **Paratransit.** "Paratransit" means the transportation of passengers by motor vehicle or other means of conveyance by persons operating on a regular and continuing basis and the transportation or delivery of packages in conjunction with an operation having the transportation of passengers as its primary and predominant purpose and activity, but excluding regular route transit. "Paratransit" includes transportation by car pool and commuter van, point deviation and route deviation services, shared-ride taxi service, dial-a-ride service, and other similar services.

Subd. 7. **Public transit or transit.** "Public transit" or "transit" means general or specific transportation service provided to the public on a regular and continuing basis. "Public transit" or "transit" includes paratransit and regular route transit.

Subd. 8. **Regular route transit.** "Regular route transit" means transportation of passengers for hire by a motor vehicle or other means of conveyance by any person operating on a regular and continuing basis as a common carrier on fixed routes and schedules. "Regular route transit" does not include transportation of children to or from school or of passengers between a common carrier terminal station and a hotel or motel, transportation by common carrier railroad or common carrier railroads or by taxi, transportation furnished by a person solely for that person's employees or customers, or paratransit.

Subd. 9. [Repealed, 1Sp2001 c 8 art 2 s 76]

Subd. 10. [Renumbered subd 15]

Subd. 11. [Renumbered subd 14]

Subd. 12. **Rural area service.** "Rural area service" means a transportation service primarily operated in an area having population centers of less than 2,500 persons.

Subd. 13. [Renumbered subd 2b]

Subd. 14. **Small urban area service.** "Small urban area service" means a transportation service operating in an area with a population between 2,500 and 50,000.

Subd. 15. **Urbanized area service.** "Urbanized area service" means a transportation service operating in an urban area of more than 50,000 persons but does not include elderly and disabled

service, as defined in subdivision 2b.

**History:** 1977 c 454 s 19; 1982 c 586 s 2; 1983 c 371 s 2; 1984 c 654 art 3 s 63-66; 1986 c 444; 2005 c 56 s 1

### **174.23 GENERAL POWERS AND DUTIES.**

Subdivision 1. **General.** The commissioner shall have all powers necessary and convenient to carry out the provisions of sections 174.21 to 174.27 including the power to: (1) review applications for financial assistance, execute contracts, and obligate and expend program funds, upon conditions and limitations as the commissioner deems necessary for purposes of program and project implementation, operation, and evaluation, (2) accept and disburse federal funds available for the purposes of sections 174.21 to 174.27, and (3) act upon request as the designated agent of any eligible person for the receipt and disbursal of federal funds. The commissioner shall perform the duties and exercise the powers under sections 174.21 to 174.27 in coordination with and in furtherance of statewide, regional, and local transportation plans and transportation development programs. The commissioner shall set guidelines for financial assistance under the public transit subsidy program. The commissioner shall present any proposed guidelines regarding public transit financial assistance to a legislative committee composed of equal numbers appointed by the house of representatives local and urban affairs and senate transportation committees. The commissioner shall not implement any new guidelines regarding public transit financial assistance, between the period January 1, 1981 to April 15, 1982, without the prior approval of that committee.

Subd. 2. **Financial assistance.** The commissioner shall seek out and select eligible recipients of financial assistance under sections 174.21 to 174.27. The commissioner shall establish by rule the procedures and standards for review and approval of applications for financial assistance submitted to the commissioner pursuant to sections 174.21 to 174.27. Any applicant shall provide to the commissioner any financial or other information required by the commissioner to carry out the commissioner's duties. The commissioner may require local contributions from applicants as a condition for receiving financial assistance. Before the commissioner approves any grant, the application for the grant shall be reviewed and approved by the appropriate regional development commission only for consistency with regional transportation plans and development guides. If an applicant proposes a project within the jurisdiction of a transit authority or commission or a transit system assisted or operated by a city or county, the application shall also be reviewed by that commission, authority, or political subdivision for consistency with its transit programs, policies, and plans. Any regional development commission that has not adopted a transportation plan may review but may not approve or disapprove of any application.

Subd. 3. **Technical and professional assistance.** The commissioner shall offer, use, and apply the information developed pursuant to sections 174.21 to 174.27 to assist and advise political subdivisions and recipients of financial assistance in the planning, promotion,

development, operation, and evaluation of programs and projects to accomplish the purposes of sections 174.21 to 174.27. The commissioner shall seek out and select eligible recipients of such technical and professional assistance.

Subd. 4. **Research; evaluation.** The commissioner shall conduct research and shall study, analyze, and evaluate concepts, techniques, programs, and projects to accomplish the purposes of sections 174.21 to 174.27, including traffic operations improvements, preferential treatment and other encouragement of transit and paratransit services and high-occupancy vehicles, improvements in the management and operation of regular route transit services, special provision for pedestrians and bicycles, management and control of parking, changes in work schedules, and reduction of vehicle use in congested and residential areas. The commissioner shall examine and evaluate such concepts, techniques, programs, and projects now or previously employed or proposed in this state and elsewhere. The commissioner or an independent third party under contract to the commissioner shall monitor and evaluate the management and operation of public transit systems, services, and projects receiving financial or professional and technical assistance under sections 174.21 to 174.27 or other state programs to determine the manner in which and the extent to which such systems, services, and projects contribute or may contribute to the purposes of sections 174.21 to 174.27. The commissioner shall develop and promote proposals and projects to accomplish the purposes of sections 174.21 to 174.27 and shall actively solicit such proposals from municipalities, counties, legislatively established transit commissions and authorities, regional development commissions, and potential vendors. In conducting such activities the commissioner shall make the greatest possible use of already available research and information. The commissioner shall use the information developed under sections 174.21 to 174.27 in developing or revising the state transportation plan.

Subd. 5. [Repealed, 1997 c 7 art 2 s 67]

Subd. 6. **Driver training.** The commissioner may make grants to any project eligible for assistance under sections 174.24 to 174.27, for the purpose of training drivers of vehicles operated by the project. The subjects of the training may include safe driving skills, techniques of assisting elderly and disabled passengers, and first aid. The commissioner may also contract with a public or private agency or institution to provide driver training to drivers of vehicles utilized by eligible projects.

Subd. 7. **Rulemaking; total operating cost.** The commissioner shall by rule define "total operating cost" as the term is used in carrying out the purposes of section 174.24. "Total operating cost" may include provisions for a fee for service. The commissioner shall consult with eligible recipients to the maximum extent feasible in formulating these rules and develop necessary and reasonable changes in cost and fee allowability provisions and financial examination procedures where possible. The rules are subject to the provisions in the Administrative Procedure Act of

sections 14.001 to 14.69.

Subd. 8. **Program administration.** The commissioner shall assign the administration of the programs set forth in sections 174.21 to 174.27 to a single division within the Department of Transportation.

Subd. 9. **Cost reimbursement policies.** The commissioner of transportation shall establish reimbursement policies based on the cost principles of the federal acquisition regulations to determine the reasonableness and allowability of various costs, including overhead factors, direct salary costs, and other costs of design and consultant contracts.

**History:** 1977 c 454 s 20; Ex1979 c 1 s 17,18; 1981 c 363 s 41; 1982 c 424 s 130; 1982 c 586 s 3,4; 1984 c 654 art 3 s 67,68; 1986 c 444; 1987 c 384 art 2 s 1; 1990 c 422 s 10; 1997 c 143 s 16; 2005 c 56 s 1

#### **174.24 PUBLIC TRANSIT PARTICIPATION PROGRAM.**

Subdivision 1. **Establishment; purpose.** A public transit participation program is established to carry out the objectives stated in section 174.21 by providing financial assistance from the state, including the greater Minnesota transit account established in section 16A.88, to eligible recipients outside of the metropolitan area.

Subd. 1a. **Transit service needs implementation plan.** The commissioner shall develop a transit service needs implementation plan that contains a goal of meeting at least 80 percent of unmet transit service needs in greater Minnesota by July 1, 2015, and meeting at least 90 percent of unmet transit service needs in greater Minnesota by July 1, 2025. The plan must include, but is not limited to, the following: an analysis of ridership and transit service needs throughout greater Minnesota; a calculation of unmet needs; an assessment of the level and type of service required to meet unmet needs; an analysis of costs and revenue options; and, a plan to reduce unmet transit service needs as specified in this subdivision. The plan must specifically address special transportation service ridership and needs. The plan must also provide that recipients of operating assistance under this section provide fixed route public transit service without charge for disabled veterans in accordance with subdivision 7. The commissioner may amend the plan as necessary, and may use all or part of the 2001 greater Minnesota public transportation plan created by the Minnesota Department of Transportation.

Subd. 2. **Eligibility; application.** Any legislatively established public transit commission or authority, any county or statutory or home rule charter city providing financial assistance to or operating public transit, any private operator of public transit, or any combination thereof is eligible to receive financial assistance through the public transit participation program. Eligible recipients must be located outside of the metropolitan area.

Subd. 2a. **Eligible activities.** Activities eligible for assistance under the program include

but are not limited to:

- (1) planning and engineering design for transit services and facilities;
- (2) capital assistance to purchase or refurbish transit vehicles and other capital expenditures necessary to provide a transit service;
- (3) operating assistance as provided under subdivision 3b; and
- (4) other assistance for public transit services that furthers the purposes of section 174.21.

Subd. 3. **Financial assistance.** Payment of financial assistance shall be by contract between the commissioner and an eligible recipient.

Subd. 3a. [Repealed, 1984 c 654 art 3 s 153 subd 1]

Subd. 3b. **Operating assistance; recipient classifications.** (a) The commissioner shall determine the total operating cost of any public transit system receiving or applying for assistance in accordance with generally accepted accounting principles. To be eligible for financial assistance, an applicant or recipient shall provide to the commissioner all financial records and other information and shall permit any inspection reasonably necessary to determine total operating cost and correspondingly the amount of assistance that may be paid to the applicant or recipient. Where more than one county or municipality contributes assistance to the operation of a public transit system, the commissioner shall identify one as lead agency for the purpose of receiving money under this section.

(b) Prior to distributing operating assistance to eligible recipients for any contract period, the commissioner shall place all recipients into one of the following classifications: urbanized area service, small urban area service, rural area service, and elderly and disabled service. The commissioner shall distribute funds under this section so that the percentage of total operating cost paid by any recipient from local sources will not exceed the percentage for that recipient's classification, except as provided in an undue hardship case. The percentages must be: for urbanized area service and small urban area service, 20 percent; for rural area service, 15 percent; and for elderly and disabled service, 15 percent. The remainder of the total operating cost will be paid from state funds less any assistance received by the recipient from any federal source. For purposes of this subdivision, "local sources" means all local sources of funds and includes all operating revenue, tax levies, and contributions from public funds, except that the commissioner may exclude from the total assistance contract revenues derived from operations the cost of which is excluded from the computation of total operating cost. Total operating costs of the Duluth Transit Authority or a successor agency does not include costs related to the Superior, Wisconsin service contract and the Independent School District No. 709 service contract.

(c) If a recipient informs the commissioner in writing after the establishment of these percentages but prior to the distribution of financial assistance for any year that paying its

designated percentage of total operating cost from local sources will cause undue hardship, the commissioner may reduce the percentage to be paid from local sources by the recipient and increase the percentage to be paid from local sources by one or more other recipients inside or outside the classification. However, the commissioner may not reduce or increase any recipient's percentage under this paragraph for more than two years successively. If for any year the funds appropriated to the commissioner to carry out the purposes of this section are insufficient to allow the commissioner to pay the state share of total operating cost as provided in this paragraph, the commissioner shall reduce the state share in each classification to the extent necessary.

**Subd. 3c. Nonoperating assistance.** The commissioner shall determine the total cost of any planning and engineering design, capital assistance, other capital expenditures, and other assistance for public transit services that furthers the purposes of section 174.21 for any public transit system receiving or applying for the assistance in accordance with generally accepted accounting principles. To be eligible for non-operating-cost financial assistance, an applicant or recipient shall provide to the commissioner all financial records and other information and shall permit any inspection reasonably necessary to determine total cost and the amount of assistance that may be paid to the applicant or recipient. When more than one county or municipality contributes assistance to the operation of a public transit system, the commissioner shall identify one as a lead agency for the purpose of receiving money under this section. The commissioner has the sole discretion to determine the amount of state funds distributed to any recipient for non-operating-cost assistance.

Subd. 4. [Repealed, 1984 c 654 art 3 s 153 subd 1]

**Subd. 5. Method of payment, operating assistance.** Payments for operating assistance under this section must be made in the following manner:

(a) For payments made from the general fund:

- (1) 50 percent of the total contract amount in or before the first month of operation;
- (2) 40 percent of the total contract amount in or before the seventh month of operation;
- (3) 9 percent of the total contract amount in or before the 12th month of operation; and
- (4) 1 percent of the total contract amount after the final audit.

(b) For payments made from the greater Minnesota transit account:

- (1) 50 percent of the total contract amount in or before the seventh month of operation; and
- (2) 50 percent of the total contract amount in or before the 11th month of operation.

**Subd. 5a. Method of payment, nonoperating assistance.** Payments for planning and engineering design, eligible capital assistance, and other eligible assistance for public transit services furthering the purposes of section 174.21, excluding operating assistance, shall be made

in an appropriate manner as determined by the commissioner.

**Subd. 6. Service contract.** (a) Any legislatively established public transit commission or authority, county, or statutory or home rule charter city that (1) is located outside the metropolitan area, and (2) provides financial assistance to or operates public transit, may provide paratransit as a complement to fixed route service as required in United States Code, title 42, section 12143, as amended through December 31, 1994, outside its jurisdictional boundaries.

(b) Service described in paragraph (a) may be provided only if (1) the commission, authority, county, or city enters into a contract for the service with a political subdivision, individual, or private entity for the service, and (2) the contract requires full or partial payment to the commission, authority, county, or city for the cost of the service.

**Subd. 7. Transit service for disabled veterans.** On and after July 1, 2009, an eligible recipient of operating assistance under this section, who contracts or has contracted to provide fixed route public transit, shall provide fixed route public transit service free of charge for veterans, as defined in section 197.447, certified as disabled. For purposes of this section, "certified as disabled" means certified in writing by the United States Department of Veterans Affairs or the state commissioner of veterans affairs as having a permanent service-connected disability.

**History:** 1977 c 454 s 21; Ex1979 c 1 s 19-21; 1981 c 363 s 42,43; 3Sp1981 c 2 art 1 s 17; 1982 c 424 s 130; 1982 c 586 s 5-8; 1983 c 293 s 75; 1984 c 654 art 3 s 69-72; 1991 c 233 s 62; 1992 c 394 s 1-4; 1995 c 101 s 1; 1999 c 238 art 2 s 30; 1Sp2001 c 5 art 3 s 9; 1Sp2001 c 8 art 2 s 51; 1Sp2003 c 19 art 2 s 42-44; 2004 c 228 art 1 s 76; 2005 c 56 s 1; 2007 c 143 art 2 s 2-4; 2008 c 350 art 1 s 67; 2009 c 36 art 3 s 12-14

**174.242** [Repealed, 1Sp2003 c 19 art 2 s 79]

**174.245** [Repealed, 1992 c 394 s 5]

**174.247 ANNUAL TRANSIT REPORT.**

(a) By February 15 annually, the commissioner shall submit a report to the legislature on transit services outside the metropolitan area. The Metropolitan Council and any public transit system receiving assistance under section 174.24 shall provide assistance in creating the report, as requested by the commissioner.

(b) The report must include, at a minimum, the following:

- (1) a descriptive overview of public transit in Minnesota;
- (2) a descriptive summary of funding sources and assistance programs;
- (3) a summary of each public transit system receiving assistance under section 174.24;
- (4) data that identifies use of volunteers in providing transit service;



(5) financial data that identifies operating and capital costs, and funding sources, for each public transit system and for each transit system classification under section 174.24, subdivision 3b; and

(6) in each odd-numbered year, beginning in 2009, a calculation of the amounts of surplus or insufficient funds available for (i) paying the state share of transit operating costs under section 174.24, subdivision 3b, and (ii) paying capital and operating costs to fully implement the transit service needs implementation plan under section 174.24, subdivision 1a.

**History:** 2008 c 350 art 1 s 68

**174.25** [Repealed, 1982 c 586 s 10]

### **174.255 PARATRANSIT PROGRAM; ACCESSIBILITY; INSURANCE.**

Subdivision 1. **Accessibility for people with disability.** The commissioner shall require any paratransit project receiving assistance under section 174.24 that includes the operation of two or more vehicles other than automobiles or taxis to provide at least one vehicle that is accessible to disabled individuals and may require additional accessible vehicles if necessary to serve disabled individuals expected to use the project. A vehicle is accessible if it is equipped to allow transportation of an individual confined to a wheelchair or using an orthopedic device.

Subd. 2. **Assistance in obtaining insurance.** In order to reduce the expense of liability insurance required for paratransit projects eligible for assistance under section 174.24, the commissioner and the commissioner of commerce shall investigate the causes of high liability insurance costs and shall take the appropriate administrative action to assist paratransit projects to obtain liability insurance coverage from qualified insurance carriers at the lowest available cost. Appropriate administrative action includes: (1) taking bids from and negotiating and entering into contracts with qualified carriers to provide liability insurance for eligible paratransit projects that wish to be covered, and (2) providing technical and administrative assistance to eligible paratransit projects to assist them in securing low-cost liability insurance.

Subd. 3. **Operator assistance.** A person operating or assisting the operation of a vehicle while employed by a program such as "project mobility" may leave the vehicle to enter premises in order to assist a person who does not require emergency ambulance service to gain access and entrance to the vehicle. The assistance shall include assisting through the first entrance to a building. Operators of the special transportation vehicles shall provide the necessary passenger assistance for door-through-door service. Assistance shall also include assisting wheelchair passengers over any exterior steps essential to either departure or destination buildings, subject to both the steps and the wheelchair being in good repair. If an operator or assistant refuses to assist because of the condition of the steps or the wheelchair, the operator of the service shall send letters to the commissioner of transportation and the person denied service detailing the

corrective measures necessary to qualify for service.

**History:** *Ex1979 c 1 s 24; 1981 c 357 s 67; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92; 1987 c 384 art 2 s 41,42*

#### **174.256 PARK-AND-RIDE PROGRAM.**

Subdivision 1. **Purpose.** It is the purpose of this section to encourage citizens of Minnesota to transfer from low-occupancy vehicles to multioccupancy vehicles, to reduce the use of the automobile and provide for more efficient usage of existing facilities in heavily traveled corridors and congested areas, to divert automobile drivers from parking spaces in metro areas, to decrease low-occupancy vehicle miles driven and the congestion, pollution, energy consumption, highway damage, and other costs associated with highway use, and to increase the efficiency and productivity of and benefit from public investments in public park-and-ride facilities and systems in the state, reducing the need for increases in urban land used for parking. It is also the purpose of this section to encourage the use of vanpools, car pools, and ride sharing by the citizens of the state.

Subd. 2. **Definitions.** For purposes of this section the following terms have the meanings given them in this subdivision:

- (a) "Commissioner" means the commissioner of transportation.
- (b) "Park-and-ride facility" means a facility consisting of a park-and-ride lot where commuters' automobiles are parked and, within a reasonable walking distance, a station or some transfer point where commuters board the transit mode.
- (c) "Transit mode" includes transportation by bus, car pool, van-pool, and other similar services.
- (d) "Exclusive use park-and-ride lot" means a parking lot that is intended to be used exclusively for park-and-ride purposes, is constructed with public money, and is located within 100 miles of a central business district.
- (e) "Joint use park-and-ride lot" means a parking lot that is intended to be used for other purposes in addition to park and ride and is located within 100 miles of a central business district.
- (f) "Fringe parking lot" means a parking lot located outside but near a central business district.

Subd. 3. **General powers and duties.** (a) The commissioner shall have the power to:

(1) develop and monitor a comprehensive park-and-ride facility program throughout the state. The program shall coordinate and provide money for the development of a statewide program of park-and-ride facilities, including joint use park-and-ride lots, exclusive use park-and-ride lots, and fringe park-and-ride lots;

(2) offer, use, and apply the information developed pursuant to clause (1) to assist and advise political subdivisions and recipients of financial assistance in the planning, promotion, development, operation, and evaluation of park-and-ride service facilities. The political subdivision or eligible recipient is responsible for the repair and maintenance of the facility by using local money;

(3) act upon request as the designated agent of any eligible person for the receipt and disbursement of federal money;

(4) contract for or provide services as needed in the design or construction of park-and-ride facilities; and

(5) establish rules necessary for implementation of the program.

(b) The commissioner shall perform the duties and exercise the powers under this section in coordination with and in furtherance of statewide, regional, and local transportation plans and transportation development programs.

Subd. 4. **Eligibility; applications.** A statutory or home rule charter city, county, school district, independent board, or agency is eligible to receive financial assistance through the park-and-ride grant program. Applications for grants shall be approved or denied by the commissioner within 120 days of receipt.

Subd. 5. **Evaluation.** The commissioner shall evaluate or contract for the evaluation of park-and-ride programs developed under this section and submit a report to the legislature by January 15, 1981, including the following information:

(1) the amounts of money spent or obligated for the park-and-ride program by the commissioner and the persons receiving those amounts;

(2) the number and type of public park-and-ride lots in use and a physical description of each;

(3) the types of lots in use, number of individuals served, and areas covered;

(4) a comparison of the cost of providing different types of service;

(5) a review of the achievements or failures of the project, problems encountered in implementation, and conclusions and recommendations concerning future action.

**History:** 1980 c 579 s 14; 1Sp1981 c 4 art 2 s 13; 1985 c 248 s 70

#### **174.257 RIDE-SHARING PROGRAM.**

Subdivision 1. **Requirements.** (a) The commissioner of transportation shall establish a ride-sharing program in order to advise citizens of the available alternatives to travel by low-occupancy vehicles and the benefits derived from sharing rides. The program must provide citizens with necessary information and opportunities for sharing rides, encourage citizens to

share rides, and assist citizens in obtaining access to shared rides. The program must make use of existing services and agencies whenever possible. The program must give priority to assisting employers who will implement employee ride-sharing programs.

(b) The services provided by the program must include:

- (1) providing general information to potential ride-sharing users;
- (2) establishing procedures for the implementation of ride-sharing programs by individuals, groups, corporations, or local agencies;
- (3) offering assistance to local governments and other political subdivisions in implementing ride-sharing programs;
- (4) providing technical assistance to those individuals, groups, corporations, or local agencies;
- (5) providing advice to individuals requesting assistance in finding ride-sharing opportunities and programs;
- (6) providing assistance in obtaining insured leased vans and management assistance to individuals and persons implementing ride-sharing programs.

Subd. 2. **No tax or license.** No political subdivision may impose a tax on, or require a license for a ride-sharing arrangement as defined in section 169.011, subdivision 65.

Subd. 3. **Vehicle use by political subdivision.** A political subdivision may authorize the use of motor vehicles which it owns or operates for ride-sharing arrangements for its employees, and may establish reasonable reimbursement rates for that use.

Subd. 4. **Vehicle use by state.** The state may authorize the use of motor vehicles which it owns or operates for ride-sharing arrangements for its employees, and shall establish reasonable reimbursement rates for that use. The commissioner of administration shall by September 1, 1983, establish a demonstration program for using state-owned vehicles, other than commuter vans, for use in ride-sharing arrangements for state employees.

**History:** 1980 c 579 s 15; 1980 c 618 s 13; 1983 c 311 s 7

**174.26** [Repealed, 1982 c 586 s 10]

**174.265** [Repealed, 1984 c 654 art 3 s 153 subd 1]

**174.27 PUBLIC EMPLOYER COMMUTER VAN PROGRAM.**

Any statutory or home rule charter city, county, school district, independent board, or agency may acquire or lease commuter vans, enter into contracts with another public or private employer to acquire or lease such vans, or purchase such a service for the use of its employees. The governing body of any such city, county, or school district may by resolution establish a commuter

van revolving fund to be used to acquire or lease commuter vans for the use of its employees. Any payments out of the fund shall be repaid to the fund out of revenues derived from the use by the employees of the city, county, or school district, of the vans so purchased or leased. Any city, county, or school district which establishes a commuter van acquisition program or contracts for this service is authorized to levy a tax annually on all taxable property in the subdivision for the purpose of establishing a commuter van revolving fund and of paying the administrative and promotional costs of the program, which levy may be in excess of all charter taxing limitations. The governing body of any city, county, or school district may by resolution terminate the commuter van revolving fund and use the funds for other purposes authorized by law.

**History:** 1977 c 454 s 24; 1989 c 277 art 4 s 17; 1992 c 511 art 5 s 5; 1994 c 505 art 2 s 3

**174.28** [Repealed, 1981 c 363 s 58]

### **174.29 COORDINATION OF SPECIAL TRANSPORTATION SERVICE.**

Subdivision 1. **Definition.** For the purpose of sections 174.29 and 174.30 "special transportation service" means motor vehicle transportation provided on a regular basis by a public or private entity or person that is designed exclusively or primarily to serve individuals who are elderly or disabled and who are unable to use regular means of transportation but do not require ambulance service, as defined in section 144E.001, subdivision 3. Special transportation service includes but is not limited to service provided by specially equipped buses, vans, taxis, and volunteers driving private automobiles.

Subd. 2. **Coordination of services.** In order to provide more adequate access to transportation service for the elderly and disabled with special transportation needs and to more efficiently utilize public and private funds expended for that purpose, all state agencies that assist, provide, reimburse, or regulate special transportation services shall promote, support, and facilitate coordination of those services with other special services and with regular transportation services offered to the general public.

Subd. 3. [Expired]

**History:** Ex1979 c 1 s 27; 1982 c 556 s 1; 1986 c 420 s 4; 1987 c 209 s 39; 1987 c 384 art 2 s 43; 1997 c 199 s 14; 2005 c 56 s 1

### **174.295 ELIGIBILITY CERTIFICATION; PENALTY FOR FRAUD.**

Subdivision 1. **Notice.** A provider of special transportation service, as defined in section 174.29, receiving financial assistance under section 174.24, shall include on the application form for special transportation service, and on the eligibility certification form if different from the application form, a notice of the penalty for fraudulent certification under subdivision 4.

Subd. 2. **Certifier statement.** A provider shall include on the application or eligibility

certification form a place for the person certifying the applicant as eligible for special transportation service to sign, and the person certifying the applicant shall sign, stating that the certifier understands the penalty for fraudulent certification and that the certifier believes the applicant to be eligible.

Subd. 3. **Applicant statement.** A provider shall include on the application form a place for the applicant to sign, and the applicant shall sign, stating that the applicant understands the penalty for fraudulent certification and that the information on the application is true.

Subd. 4. **Misdemeanor.** A person is guilty of a misdemeanor if:

(1) the person fraudulently certifies to the special transportation service provider that the applicant is eligible for special transportation service; or

(2) the person obtains certification for special transportation service by misrepresentation or fraud.

**History:** 1993 c 326 art 4 s 4

#### **174.30 OPERATING STANDARDS FOR SPECIAL TRANSPORTATION SERVICE.**

Subdivision 1. **Applicability.** (a) The operating standards for special transportation service adopted under this section do not apply to special transportation provided by:

- (1) a common carrier operating on fixed routes and schedules;
- (2) a volunteer driver using a private automobile;
- (3) a school bus as defined in section 169.011, subdivision 71; or
- (4) an emergency ambulance regulated under chapter 144.

(b) The operating standards adopted under this section only apply to providers of special transportation service who receive grants or other financial assistance from either the state or the federal government, or both, to provide or assist in providing that service; except that the operating standards adopted under this section do not apply to any nursing home licensed under section 144A.02, to any board and care facility licensed under section 144.50, or to any day training and habilitation services, day care, or group home facility licensed under sections 245A.01 to 245A.19 unless the facility or program provides transportation to nonresidents on a regular basis and the facility receives reimbursement, other than per diem payments, for that service under rules promulgated by the commissioner of human services.

(c) Notwithstanding paragraph (b), the operating standards adopted under this section do not apply to any vendor of services licensed under chapter 245B that provides transportation services to consumers or residents of other vendors licensed under chapter 245B and transports 15 or fewer persons, including consumers or residents and the driver.

Subd. 2. **Rules.** (a) The commissioner of transportation shall adopt by rule standards for the operation of vehicles used to provide special transportation service which are reasonably necessary to protect the health and safety of individuals using that service. The commissioner, as far as practicable, consistent with the purpose of the standards, shall avoid adoption of standards that unduly restrict any public or private entity or person from providing special transportation service because of the administrative or other cost of compliance.

(b) Standards adopted under this section must include but are not limited to:

(1) qualifications of drivers and attendants, including driver training requirements that must be met before a driver provides special transportation;

(2) safety of vehicles and necessary safety equipment;

(3) general requirements concerning inspection and maintenance of vehicles, replacement vehicles, standard vehicle equipment, and specialized equipment necessary to ensure vehicle usability and safety for disabled persons; and

(4) minimum insurance requirements.

(c) The commissioner shall consult with the Council on Disability before making a decision on a variance from the standards.

Subd. 2a. **Vehicle and equipment safety; provider responsibilities.** (a) Every special transportation service provider shall systematically inspect, repair, and maintain, or cause to be inspected, repaired, and maintained, the vehicles and equipment subject to the control of the provider. Each vehicle and its equipment must be inspected daily. A vehicle may not be operated in a condition that is likely to cause an accident or breakdown of the vehicle. Equipment, including specialized equipment necessary to ensure vehicle usability and safety for disabled persons, must be in proper and safe operating condition at all times.

(b) Each special transportation provider shall maintain the following records for each vehicle:

(1) an identification of the vehicle, including make, serial number, and year, and, if the vehicle is not owned by the provider, the name and address of the person furnishing the vehicle;

(2) a schedule of inspection and maintenance operations to be performed;

(3) a record of inspections, repairs, and maintenance showing the date and nature;

(4) a lubrication record; and

(5) a record of tests conducted to ensure that emergency doors or windows and wheelchair lifts function properly.

Subd. 3. **Other standards; wheelchair securement.** (a) A special transportation service that transports individuals occupying wheelchairs is subject to the provisions of sections 299A.11

to 299A.18 concerning wheelchair securement devices. The commissioners of transportation and public safety shall cooperate in the enforcement of this section and sections 299A.11 to 299A.18 so that a single inspection is sufficient to ascertain compliance with sections 299A.11 to 299A.18 and with the standards adopted under this section. Representatives of the Department of Transportation may inspect wheelchair securement devices in vehicles operated by special transportation service providers to determine compliance with sections 299A.11 to 299A.18 and to issue certificates under section 299A.14, subdivision 4.

(b) In place of a certificate issued under section 299A.14, the commissioner may issue a decal under subdivision 4 for a vehicle equipped with a wheelchair securement device if the device complies with sections 299A.11 to 299A.18 and the decal displays the information in section 299A.14, subdivision 4.

**Subd. 4. Vehicle and equipment inspection; rules; decal; complaint contact information.** (a) The commissioner shall inspect or provide for the inspection of vehicles at least annually. In addition to scheduled annual inspections and reinspections scheduled for the purpose of verifying that deficiencies have been corrected, unannounced inspections of any vehicle may be conducted.

(b) On determining that a vehicle or vehicle equipment is in a condition that is likely to cause an accident or breakdown, the commissioner shall require the vehicle to be taken out of service immediately. The commissioner shall require that vehicles and equipment not meeting standards be repaired and brought into conformance with the standards and shall require written evidence of compliance from the operator before allowing the operator to return the vehicle to service.

(c) The commissioner shall provide in the rules procedures for inspecting vehicles, removing unsafe vehicles from service, determining and requiring compliance, and reviewing driver qualifications.

(d) The commissioner shall design a distinctive decal to be issued to special transportation service providers with a current certificate of compliance under this section. A decal is valid for one year from the last day of the month in which it is issued. A person who is subject to the operating standards adopted under this section may not provide special transportation service in a vehicle that does not conspicuously display a decal issued by the commissioner.

(e) Special transportation service providers shall prominently display in each vehicle all contact information for the submission of complaints regarding the transportation services provided to that individual. All vehicles providing service under section 473.386 shall display contact information for the Metropolitan Council. All other special transportation service vehicles shall display contact information for the commissioner of transportation.

**Subd. 4a. Certification of special transportation provider.** The commissioner shall



annually evaluate or provide for the evaluation of each provider of special transportation service regulated under this section and certify that the provider is in compliance with the standards under this section.

Subd. 5. **Rules.** The rules authorized under this section shall be adopted in accordance with the provisions of the Administrative Procedure Act, sections 14.001 to 14.69.

Subd. 6. **Preemption of other requirements.** (a) Notwithstanding any other law, ordinance, or resolution to the contrary, an operator of special transportation service that has been issued a current certificate of compliance under subdivision 4a for vehicles used to provide that service is not required to obtain any other state or local permit, license or certificate as a condition of operating the vehicles for that purpose. This subdivision does not exempt any vehicle from the requirements imposed on vehicles generally as a condition of using the public streets and highways.

(b) The requirements of sections 169.781 to 169.783 and chapter 221 do not apply to vehicles when they are being operated under a current certificate of compliance issued by the commissioner.

Subd. 7. **Enforcement.** No state agency, political subdivision, or other public agency shall provide any capital or operating assistance to or reimbursement for special transportation service unless the operator providing the service has a current certificate of compliance issued under subdivision 4a.

Subd. 8. **Administrative penalties.** The commissioner may issue an order requiring violations of this section and the operating standards adopted under this section to be corrected and assessing monetary penalties of up to \$1,000 for all violations identified during a single inspection, investigation, or audit. Section 221.036 applies to administrative penalty orders issued under this section or section 174.315. The commissioner shall suspend, without a hearing, a special transportation service provider's certificate of compliance for failure to pay, or make satisfactory arrangements to pay, an administrative penalty when due.

Penalties collected under this section must be deposited in the state treasury and credited to the trunk highway fund.

Subd. 9. **Complaints; report; data classification.** (a) The commissioner shall investigate all complaints over which the commissioner has jurisdiction regarding special transportation service providers regulated under this section.

(b) By January 15, 2009, and in every subsequent odd-numbered year by January 15, the commissioner shall submit a report to the chairs and ranking minority members of the house of representatives and senate committees having jurisdiction over transportation policy and finance.

The report must identify each complaint investigated by the commissioner under paragraph (a), including, but not limited to, any findings and steps taken for resolution of the complaint.

(c) When information is furnished to the Department of Transportation that alleges a violation of this section, an operating standard adopted under this section, or section 174.315, the following data are classified as confidential data or protected nonpublic data:

(1) names of complainants;

(2) complaint letters; and

(3) other unsolicited data when furnished by a person who is not the subject of the data and who is not a department employee.

**History:** *Ex1979 c 1 s 28; 1982 c 424 s 130; 1982 c 556 s 2; 1984 c 654 art 5 s 58; 1987 c 88 s 1-7; 1987 c 354 s 8; 1987 c 384 art 2 s 1; 1989 c 209 art 2 s 1; 1989 c 318 s 6; 1990 c 422 s 10; 1992 c 578 s 12; 1993 c 339 s 1; 1995 c 155 s 3-8; 1Sp2003 c 14 art 3 s 1; 2008 c 287 art 1 s 72,73*

**174.31** [Repealed, 1984 c 654 art 3 s 153 subd 1]

### **174.315 SPECIAL TRANSPORTATION; AMBULANCE SERVICE PROHIBITED.**

Subdivision 1. **Prohibition.** Special transportation services shall not provide or offer transportation to persons who might reasonably require ambulance service, as defined in section 144E.001, subdivision 3, while in the special transportation vehicle. The commissioner of transportation shall investigate all complaints alleging violations of this section. When requested, the commissioner of health shall assist the commissioner of transportation in determining whether a violation occurred.

Subd. 2. **Data classified.** Data relating to an individual's physical condition or medical treatment collected, received, or maintained by the Department of Transportation under this section are private data on individuals. The commissioner of transportation may disclose data classified as private data on individuals to the commissioner of health to the extent necessary to determine if a violation of this section occurred.

Subd. 3. **Penalties.** Notwithstanding section 174.30, subdivision 8, the commissioner of transportation may issue an order assessing a monetary penalty of up to \$10,000 for a violation of this section. The minimum penalty for a third violation of this section within three years shall be revocation of the certificate issued under section 174.30, subdivision 4a. A person whose certificate is revoked under this section may appeal the commissioner's action in a contested case proceeding under chapter 14.

**History:** *1990 c 556 s 3; 1995 c 155 s 9; 1997 c 199 s 14*

**174.32** [Repealed, 2007 c 143 art 2 s 7]

**174.35 LIGHT RAIL TRANSIT.**

The commissioner of transportation may exercise the powers granted in this chapter and chapter 473, as necessary, to plan, design, acquire, construct, and equip light rail transit facilities in the metropolitan area as defined in section 473.121, subdivision 2. The commissioner shall not spend state funds to study light rail transit unless the funds are appropriated in legislation that identifies the route, including the origin and destination.

**History:** 1993 c 353 s 2; 1Sp2001 c 8 art 2 s 52

**174.36 NOTICE OF STUDIES OF HIGH-SPEED RAIL.**

The commissioner shall notify the chairs of the senate and house of representatives committees with jurisdiction over transportation finance whenever the commissioner spends state funds to study high-speed intercity passenger rail service.

**History:** 1Sp2001 c 8 art 2 s 53

**174.37 ADVISORY COMMITTEE ON NONMOTORIZED TRANSPORTATION.**

Subdivision 1. **Purpose.** (a) The commissioner of transportation shall establish an advisory committee on nonmotorized transportation. The committee shall make recommendations to the commissioner on items related to nonmotorized transportation, including safety, education, and development programs. The committee shall review and analyze issues and needs relating to operating nonmotorized transportation on public rights-of-way, and identify solutions and goals for addressing identified issues and needs.

(b) For purposes of this section, "nonmotorized transportation" includes bicycling, pedestrian activities, and other forms of nonmotorized transportation.

Subd. 2. **Members.** The advisory committee must consist of the following members:

(a) The commissioner of transportation shall appoint up to 18 public members, as follows: one member from each of the department's seven greater Minnesota districts; four members from the department's metropolitan district; and no more than seven members at large. Each of the members at large must represent nonmotorized interests or organizations.

(b) The commissioners of each of the following state agencies shall appoint an employee of the agency to serve as a member: administration, education, health, natural resources, public safety, transportation, and pollution control. The chair of the Metropolitan Council shall appoint an employee of the council to serve as a member. The director of Explore Minnesota Tourism shall appoint an employee of the agency to serve as a member. The division administrator of the Federal Highway Administration may appoint an employee of the agency to serve as a member.

(c) Members of the committee shall serve four-year terms.

Subd. 3. **Meetings.** The commissioner of transportation's designee shall convene the first

meeting by January 15, 2009. The committee shall elect a chair from its membership, and shall establish a meeting schedule and meet at least annually.

Subd. 4. **Reports.** The committee shall issue an annual report to the commissioner of transportation.

Subd. 5. **Expenses.** Members of the advisory committee serve without compensation, but members who are not employees of government agencies must be reimbursed for expenses in the same manner and amount as authorized by the commissioner's plan adopted under section 43A.18, subdivision 2. The commissioner of transportation shall provide department staff support to the committee.

Subd. 6. **Expiration.** Notwithstanding section 15.059, subdivision 5, the committee expires June 30, 2014.

**History:** 2008 c 350 art 1 s 69

## TRANSPORTATION SYSTEM FINANCING

### 174.50 MINNESOTA STATE TRANSPORTATION FUND.

Subdivision 1. **Legislative findings; purpose.** State assistance is needed to supplement local effort and the highway user tax distribution fund in financing capital improvements to preserve and develop a balanced transportation system throughout the state. Such a system is a proper function and concern of state government and necessary to protect the safety and personal and economic welfare of all citizens. It requires capital expenditures for public facilities, improvements, and equipment that are complementary, additional, and alternate to highways and are a proper object for contracting public debt and engaging in works of internal improvements under article XI, section 5, clause (a), of the Constitution. These expenditures are needed to harmonize state and local highway systems with the requirements of the federal interstate highway system, to avoid harmful environmental impact of arterial highways on urban, scenic, and recreational areas, and to provide auxiliary facilities for the convenience and safety of persons crossing highways and persons living and working adjacent to them. Capital expenditures of this nature exceed requirements for basic highway systems and should be funded from sources other than the taxes and bonds authorized in article XIV of the Constitution. However, the improvements tend to reduce the cost of maintenance of highways to the minimum required for accommodation of traffic, and the cost may and shall continue to be paid from taxes authorized in article XIV of the Constitution. Immediate improvement needs are reconstruction and replacement of key bridges and approaches to remove obstructions to the flow of traffic on state and county highways, municipal streets, and town roads and expedited completion of the interstate highway system in Minnesota by paying the state share of interstate highway segments, and a portion of the local share of interstate highway substitution projects when those interstate

substitution projects are approved in accordance with state and federal law.

Subd. 1a. **Rail line.** An additional need of the state transportation system is the acquisition and betterment of rail lines and right-of-way for preservation in the state rail bank as provided in section 222.63.

Subd. 2. **Fund created.** A Minnesota state transportation fund is created as a separate bookkeeping account in the general books of account of the state, to record receipts and disbursements of money appropriated from the fund to agencies and subdivisions of the state for the acquisition and betterment of public land, buildings, and capital improvements needed for the development of the state transportation system.

Subd. 3. **Fund revenue; appropriation.** The commissioner of management and budget shall deposit in the fund as received all proceeds of Minnesota state transportation bonds, except accrued interest and premiums; all other money appropriated by law for the purposes of the fund; and all money granted to the state for these purposes by the federal government or any agency thereof. All such receipts are annually appropriated for the permanent construction and improvement purposes of the fund and shall be and remain available for expenditure in accordance with this section and applicable federal laws until the purposes for which the appropriations were made have been accomplished or abandoned. Upon certification to the commissioner of management and budget by the agency or subdivision to which any appropriation of bond proceeds has been made that the purpose thereof has been accomplished or abandoned, any unexpended balance of the appropriation, unless reappropriated by law, shall be transferred to the state bond fund and is appropriated to reduce the amount of tax otherwise required by the Constitution to be levied for that fund. No money shall be transferred to the state transportation fund from the highway user tax distribution fund or any other fund created by article XIV of the Constitution.

Subd. 4. [Repealed, 2004 c 180 s 1]

Subd. 5. **Certification and disbursal for project of political subdivision.** Before disbursement of an appropriation made from the fund to the commissioner of transportation for grants to subdivisions of the state, the commissioner shall certify:

(1) that the project for which the grant is made has been reviewed as provided in subdivision 4;

(2) that the project conforms to the program authorized by the appropriation law and rules adopted by the Department of Transportation consistent therewith; and

(3) that the financing of any estimated cost of the project in excess of the amount of the grant is assured by the appropriation of the proceeds of bonds or other funds of the subdivision, or by a grant from an agency of the federal government, within the amount of funds then appropriated to that agency and allocated by it to projects within the state, and by an irrevocable

undertaking, in a resolution of the governing body of the subdivision, to use all funds so made available exclusively for the project, and to pay any additional amount by which the cost exceeds the estimate through appropriation to the construction fund of additional funds or the proceeds of additional bonds to be issued by the subdivision.

Subd. 6. **Grant rules.** Procedures for application for grants from the fund, conditions for their administration, and criteria for priority, unless established in the laws authorizing the grants, shall be established by rules of the Department of Transportation consistent with those laws. Criteria for determining priorities and amounts of grants shall be based on consideration of:

- (1) effectiveness of the project in eliminating a deficiency in the transportation system;
- (2) number of persons affected by the deficiency;
- (3) economic feasibility;
- (4) effect on optimum land use and other concerns of state and regional planning;
- (5) availability of other financing capability; and
- (6) adequacy of provision for proper operation and maintenance after construction.

Subd. 6a. **Grant for preliminary engineering of river crossing.** (a) The commissioner may make a grant to any political subdivision for preliminary engineering of a river crossing which requires extensive studies and evaluations to determine the environmental impact, location and design features of the crossing. A grant shall not exceed \$300,000 for a single bridge project and shall not be used for the preparation of construction plans or specifications.

(b) Application for a grant shall be made by resolution of the governing body of the subdivision proposing to construct or reconstruct the bridge. A grant under this subdivision is subject to the procedures and criteria provided in subdivisions 5 and 6. A grant shall also be subject to the priority ranking established under the existing rules of the department if the proposed bridge has been ranked under those rules. No new rules are required for the administration of the grant program established by this subdivision.

Subd. 6b. **Bridge engineering and design costs in smaller cities.** Until June 30, 2007, the commissioner may make grants from the state transportation fund to a home rule or statutory city with a population of 5,000 or less and a net tax capacity of under \$200,000 for design and preliminary engineering of bridges on city streets. Grants under this subdivision are subject to the procedures and criteria established under subdivisions 5 and 6, and may be used for 100 percent of the design and preliminary engineering costs. Total grants under this subdivision to all cities may not exceed \$200,000.

Subd. 6c. **Fracture-critical bridges.** (a) The commissioner may make a grant to any political subdivision for replacement or rehabilitation of a fracture-critical bridge. To be eligible

for a grant under this subdivision, the project must produce a bridge structure:

- (1) that is no longer classified as fracture critical, by having alternate load paths; and
- (2) whose failure of a main component will not result in the collapse of the bridge.

(b) A grant under this subdivision is subject to the procedures and criteria established under subdivisions 5 and 6.

**Subd. 7. Rules for administering funds and grants.** The commissioner of transportation shall develop rules, standards and criteria, including bridge specifications, in cooperation with road authorities of political subdivisions, for use in the administration of funds appropriated to the commissioner and for the administration of grants to subdivisions. The maximum use of standardized bridges is encouraged. Regardless of the size of the existing bridge, a bridge or replacement bridge is eligible for assistance from the state transportation fund if a hydrological survey indicates that the bridge or replacement bridge must be ten feet or more in length. Funds appropriated to the commissioner from the Minnesota state transportation fund shall be segregated from the highway tax user distribution fund and other funds created by article XIV of the Constitution.

**History:** 1976 c 339 s 1; 1977 c 454 s 26; 1979 c 280 s 3; 1981 c 338 s 1; 1981 c 361 s 16; 1984 c 412 s 1; 1999 c 230 s 18; 2003 c 112 art 2 s 50; 1Sp2005 c 6 art 3 s 79; 2009 c 36 art 3 s 15; 2009 c 101 art 2 s 109

## **174.51 MINNESOTA STATE TRANSPORTATION BONDS.**

Subdivision 1. **Purposes.** For the purpose of providing money appropriated to agencies or subdivisions of the state from the Minnesota state transportation fund for the acquisition and betterment of public land, buildings, and capital improvements needed for the development of the state transportation system, when such appropriations or loans are authorized by Laws 1976, chapter 339, section 3 or another law and funds therefor are requested by the governor, the commissioner of management and budget shall sell and issue bonds of the state of Minnesota for the prompt and full payment of which, with interest thereon, the full faith and credit and taxing powers of the state are irrevocably pledged. Bonds shall be issued pursuant to this section only as authorized by a law specifying the purpose thereof and the maximum amount of the proceeds authorized to be expended for that purpose. Any such law, together with this section, constitutes complete authority for the issue, and such bonds shall not be subject to restrictions or limitations contained in any other law.

Subd. 2. **Sale; general obligations.** The bonds shall be sold upon sealed bids and upon notice, at a price, in form and denominations, bearing interest at a rate or rates, maturing in amounts and on dates, without option of prior redemption or subject to prepayment upon notice and at times and prices, payable at a bank or banks within or outside the state, with or without

provisions for registration, conversion, exchange, and issuance of temporary bonds or notes in anticipation of the sale or delivery of definitive bonds, and in accordance with further provisions, as the commissioner of management and budget shall determine subject to the approval of the attorney general, but not subject to the provisions of chapter 14, including section 14.386. Each bond shall mature within 20 years from its date of issue and shall be executed by the commissioner of management and budget under official seal. The signature on the bonds and on any interest coupons and the seal may be printed or otherwise reproduced, except that each bond shall be authenticated by the manual signature on its face of the commissioner of management and budget or of a person authorized to sign on behalf of a bank designated by the commissioner as registrar or other authenticating agent. The commissioner of management and budget shall ascertain and certify to the purchasers of the bonds the performance and existence of all acts, conditions, and things necessary to make them valid and binding general obligations of the state of Minnesota, subject to the approval of the attorney general.

Subd. 3. **Expenses.** All expenses incidental to the sale, printing, execution, and delivery of bonds pursuant to this section, including but not limited to actual and necessary travel and subsistence expenses of state officers and employees for such purposes, shall be paid from the Minnesota state transportation fund and the amounts necessary therefor are appropriated from that fund.

Subd. 4. **Account; appropriation.** The commissioner of management and budget shall maintain in the state bond fund a separate bookkeeping account designated as the Minnesota state transportation bond account, to record receipts and disbursements of money transferred to the fund to pay Minnesota state transportation bonds and interest thereon, and of income from the investment of such money, which income shall be credited to the account in each fiscal year in an amount equal to the approximate average rate of return that year on all funds invested by the commissioner of management and budget, as determined by the commissioner of management and budget, times the average balance in the account that year.

Subd. 5. **Money credited; appropriated.** The premium and accrued interest received on each issue of Minnesota state transportation bonds shall be credited to the bond account. There shall also be credited to the bond account from the general fund in the state treasury, on November 1 in each year, a sum of money equal to the amount of the tax which article XI of the Constitution would otherwise require to be levied for collection in the following year, to increase the balance in the account to an amount sufficient to pay principal and interest due and to become due with respect to Minnesota state transportation bonds. All money so credited and all income from the investment thereof is annually appropriated to the bond account for the payment of such bonds and interest thereon, and shall be available in the bond account prior to the levy of a tax for the state bond fund in any year as required by article XI of the Constitution. No money shall be transferred



to the Minnesota state transportation bond account from the highway user tax distribution fund or any other fund created by article XIV of the Constitution. The commissioner of management and budget is directed to make the appropriate entries in the accounts of the respective funds.

Subd. 6. **Levy; transfer of funds; appropriations.** On or before December 1 in each year, if the full amount appropriated to the bond account in subdivision 5 has not been credited thereto, the tax required by article XI of the Constitution shall be levied upon all taxable property within the state. This tax shall be subject to no limitation of rate or amount until all Minnesota state transportation bonds and interest thereon are fully paid. The proceeds of this tax are appropriated and shall be credited to the state bond fund, and the principal of and interest on the bonds are payable from such proceeds, and the whole thereof, or so much as may be necessary, is appropriated for such payments. If at any time there is not sufficient money from the proceeds of such taxes to pay the principal and interest when due on Minnesota state transportation bonds, such principal and interest shall be paid out of the general fund in the state treasury, and the amount necessary therefor is hereby appropriated.

**History:** 1976 c 339 s 2; 1982 c 424 s 130; 1983 c 301 s 143,144; 1Sp1985 c 14 art 4 s 29; 1995 c 233 art 2 s 56; 1997 c 187 art 5 s 25; 2003 c 112 art 2 s 24,50; 2009 c 101 art 2 s 109

#### **174.52 LOCAL ROAD IMPROVEMENT FUND.**

Subdivision 1. **Fund created.** A local road improvement fund is created in the state treasury. The fund consists of money transferred to the fund through appropriation, gift, or grant.

Subd. 2. **Trunk highway corridor projects account.** A trunk highway corridor projects account is established in the local road improvement fund. Money in the account is annually appropriated to the commissioner of transportation for expenditure as specified in this section. Money in the account must be used as grants or loans to statutory or home rule charter cities, towns, and counties to assist in paying the local share of trunk highway projects that have local costs that are directly or partially related to the trunk highway improvement and that are not funded or are only partially funded with other state and federal funds. The commissioner shall determine the amount of the local share of costs eligible for assistance from the account.

Subd. 3. **Advisory committee.** (a) The commissioner shall establish an advisory committee consisting of five members, including:

(1) one county commissioner;

(2) one county engineer;

(3) one city engineer;

(4) one city council member or city administrator representing a city with a population over 5,000; and

(5) one city council member or city administrator representing a city with a population under 5,000. The advisory committee shall provide recommendations to the commissioner regarding expenditures from the trunk highway corridor projects account.

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

**Subd. 4. Local road account for routes of regional significance.** A local road account for routes of regional significance is established in the local road improvement fund. Money in the account is annually appropriated to the commissioner of transportation for expenditure as specified in this section. Money in the account must be used as grants or loans to statutory or home rule charter cities, towns, and counties to assist in paying the costs of constructing or reconstructing city streets, county highways, or town roads with statewide or regional significance that have not been fully funded through other state, federal, or local funding sources.

**Subd. 4a. Rural road safety account; appropriation.** (a) A rural road safety account is established in the local road improvement fund. Money in the account is annually appropriated to the commissioner of transportation for expenditure as specified in this subdivision. Money in the account must be used as grants to counties to assist in paying the costs of capital improvement projects on county state-aid highways that are intended primarily to reduce traffic crashes, deaths, injuries, and property damage.

(b) The commissioner shall establish procedures for counties to apply for grants from the rural road safety account and criteria to be used to select projects for funding. The commissioner shall establish these procedures and criteria in consultation with representatives appointed by the Association of Minnesota Counties. Eligibility for project selection must be based on the ability of each proposed project to reduce the frequency and severity of crashes.

(c) Money in the account must be allocated in each fiscal year as follows:

(1) one-third of money in the account must be used for projects in the counties of Anoka, Chisago, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington; and

(2) the remainder must be used for projects elsewhere in the state.

**Subd. 5. Grant procedures and criteria.** The commissioner shall establish procedures for statutory or home rule charter cities, towns, and counties to apply for grants or loans from the fund and criteria to be used to select projects for funding. The commissioner shall establish these procedures and criteria in consultation with representatives appointed by the Association of Minnesota Counties, League of Minnesota Cities, Minnesota Association of Townships, and the appropriate state agency as needed. The criteria for determining project priority and the amount of a grant or loan must be based upon consideration of:

(1) the availability of other state, federal, and local funds;

(2) the regional significance of the route;

(3) effectiveness of the proposed project in eliminating a transportation system deficiency;

(4) the number of persons who will be positively impacted by the project;

(5) the project's contribution to other local, regional, or state economic development or redevelopment efforts including livestock and other agricultural operations permitted after the effective date of this section; and

(6) ability of the local unit of government to adequately provide for the safe operation and maintenance of the facility upon project completion.

Subd. 6. **Administrative costs.** A sum of 0.25 percent of the total amount in the fund, other than amounts deposited in the fund from the proceeds from the sale of state bonds, is available to be used for administrative costs incurred by the department in carrying out the provisions of this section.

**History:** 2002 c 393 s 55; 2004 c 295 art 1 s 15; 2005 c 20 art 1 s 36; 1Sp2005 c 1 art 1 s 83

**174.55** [Repealed, 2004 c 295 art 1 s 17]

#### **174.56 REPORT ON MAJOR HIGHWAY PROJECTS.**

Subdivision 1. **Report required.** The commissioner of transportation shall submit a report on January 15, 2009, and on January 15 of each year thereafter, on the status of major highway projects under construction or planned during the year of the report and for the ensuing 15 years. For purposes of this section, a "major highway project" is a highway project that has a total cost for all segments that the commissioner estimates at the time of the report to be at least (1) \$25,000,000 in the metropolitan highway construction district, or (2) \$10,000,000 in any nonmetropolitan highway construction district.

Subd. 2. **Report contents.** For each major highway project the report must include:

(1) a description of the project sufficient to specify its scope and location;

(2) a history of the project, including, but not limited to, previous official actions by the department or the appropriate area transportation partnership, or both, the date on which the project was first included in the state transportation improvement plan, the cost of the project at that time, the dates of environmental approval, the dates of municipal approval, the date of final geometric layout, and the date of establishment of any construction limits;

(3) the project's priority listing or rank within its construction district, if any, as well as the reasons for that listing or rank, the criteria used in prioritization or rank, any changes in that prioritization or rank since the project was first included in a department work plan, and the reasons for those changes; and

(4) past and potential future reasons for delay in letting or completing the project.

Subd. 3. **Department resources.** The commissioner shall prepare and submit the report with existing department staff and resources.

**History:** 2008 c 287 art 1 s 74

## **RAILROAD PASSENGER SERVICE**

### **174.60 RAILROAD PASSENGER SERVICE PROVIDED.**

The purpose and intent of sections 174.60 to 174.63 is to provide for a balanced transportation system in the state, required by the public convenience and necessity, by making available rail passenger service not provided by the National Railroad Passenger Corporation in its basic national rail passenger system.

**History:** 1971 c 956 s 1

### **174.61 DEFINITIONS.**

Subdivision 1. **Scope.** For the purposes of sections 174.60 to 174.63 the terms defined in this section have the meanings given them.

Subd. 2. **Corporation.** "Corporation" means the National Railroad Passenger Corporation created pursuant to the Rail Passenger Service Act of 1970, Public Law 91-518.

Subd. 3. **Governmental unit.** "Governmental unit" means a regional development commission, county, city or town.

**History:** 1971 c 956 s 2; 1973 c 123 art 5 s 7

### **174.62 AUTHORITY TO ENTER INTO AGREEMENT.**

The commissioner of transportation, any governmental unit, or any combination thereof, may enter into any contracts or agreements pursuant to Public Law 91-518 and in conformance with state law governing contracts by state agencies and governmental units, to reimburse the corporation for a reasonable portion of any losses associated with the institution of intercity rail passenger service by the corporation beyond that included within the basic national rail passenger system.

**History:** 1971 c 956 s 3; 1976 c 166 s 6 subd 3

### **174.63 PUBLIC HEARING; NOTICE.**

Before any contract or agreement, as provided in section 174.62, is entered into, the governing body of the governmental unit shall hold a public hearing on such proposed contract or agreement. Notice of the time and place of said hearing shall be published in one or more legal newspapers of general circulation in the area once in each week for two successive weeks prior to said hearing. The published notice shall be in a form determined by the governing body,

which form shall be sufficient in size and prominent in format in order to attract the attention of the reader. In any event the notice shall be of a size at least two columns in width by six inches in length. The notice shall set forth the portion of any losses that the governmental unit proposes to reimburse the corporation.

**History:** 1971 c 956 s 4

#### **174.632 PASSENGER RAIL; COMMISSIONER'S DUTIES.**

(a) The planning, design, development, construction, operation, and maintenance of passenger rail track, facilities, and services are governmental functions, serve a public purpose, and are a matter of public necessity.

(b) The commissioner is responsible for all aspects of planning, designing, developing, constructing, equipping, operating, and maintaining passenger rail, including system planning, alternatives analysis, environmental studies, preliminary engineering, final design, construction, negotiating with railroads, and developing financial and operating plans.

(c) The commissioner may enter into a memorandum of understanding or agreement with a public or private entity, including a regional railroad authority, a joint powers board, and a railroad, to carry out these activities.

**History:** 2009 c 36 art 3 s 16

#### **174.634 PASSENGER RAIL; FUNDING.**

(a) The commissioner may apply for funding from federal, state, regional, local, and private sources to carry out the commissioner's duties in section 174.632.

(b) Section 174.88, subdivision 2, does not apply to the commissioner's performance of duties and exercise of powers under sections 174.632 to 174.636.

**History:** 2009 c 36 art 3 s 17

#### **174.636 PASSENGER RAIL; EXERCISE OF POWER.**

(a) The commissioner has all powers necessary to carry out the duties specified in section 174.632. In the exercise of those powers, the commissioner may:

(1) acquire by purchase, gift, or by eminent domain proceedings as provided by law, all land and property necessary to preserve future passenger rail corridors or to construct, maintain, and improve passenger rail corridors;

(2) let all necessary contracts as provided by law; and

(3) make agreements with and cooperate with any governmental authority or private entity to carry out statutory duties related to passenger rail.

(b) The commissioner shall consult with metropolitan planning organizations and regional rail authorities in areas where passenger rail corridors are under consideration to ensure that passenger rail services are integrated with existing rail and transit services and other transportation facilities to provide as nearly as possible connected, efficient, and integrated services.

**History:** 2009 c 36 art 3 s 18

## MOTOR CARRIERS AND RAIL CARRIERS

### 174.64 FUNCTIONS AND POWERS RELATING TO CARRIERS.

Subdivision 1. **Commissioner's powers generally.** Some of the functions of the commissioner of transportation, related to motor carriers and common carriers by rail, are quasi-judicial in nature. The commissioner may make investigations and determinations, hold hearings, prescribe rules, and issue orders with respect to the control and conduct of the carrier businesses coming within the commissioner's jurisdiction as authorized by law.

Subd. 2. **Specific functions and powers.** (a) To the extent allowed under federal law or regulation, the commissioner shall further hold hearings and issue orders in cases brought on the commissioner's own motion or by a third party in the following areas:

(1) adequacy of services that carriers are providing to the public, including the continuation, termination, or modification of services and facilities;

(2) reasonableness of tariffs of rates, fares, and charges, or a part or classification of a tariff; and

(3) issuing permits.

(b) For purposes of paragraph (a), clause (2), the commissioner may authorize common carriers by rail and motor carriers for hire to file tariffs of rates, fares, and charges individually or by group. Carriers participating in group ratemaking have the free and unrestrained right to take independent action either before or after a determination arrived at through that procedure.

Subd. 3. **Subpoena power.** The commissioner shall have subpoena power.

Subd. 4. **Petition and hearing.** (a) With respect to those matters within the commissioner's jurisdiction, the commissioner shall receive, hear, and determine all petitions filed with the commissioner in accordance with the procedures established by law and may hold hearings and make determinations upon the commissioner's own motion to the same extent, and in every instance, in which the commissioner may do so upon petition.

(b) If the commissioner receives a written objection and notice of intent to appear at a hearing to object to the petition from any person within 20 days of the notice having been fully given, the request of the petition must be granted or denied only after a contested case hearing

has been conducted on the petition, unless the objection is withdrawn before the hearing. The commissioner may elect to hold a contested case hearing if no objections to the petition are received. If a timely objection is not received, or if received and withdrawn, and the request of the petition is denied without hearing, the petitioner may request within 30 days of receiving the notice of denial, and must be granted, a contested case hearing on the petition.

**History:** 1980 c 534 s 2; 1983 c 293 s 76; 1986 c 468 s 1; 1999 c 238 art 2 s 32; 2001 c 213 s 16-18,30; 1Sp2003 c 19 art 2 s 46; 2009 c 64 s 19

#### **174.65 CARRIER HEARINGS AND APPEALS.**

Subdivision 1. **Hearings.** All hearings related to common carriers by rail or motor carriers and required to be conducted by the commissioner of transportation must be conducted pursuant to sections 14.001 to 14.69.

Subd. 2. **Appeals.** An appeal from an order of the commissioner must be in accordance with chapter 14.

**History:** 1980 c 534 s 4; 1982 c 424 s 130; 1987 c 384 art 2 s 1; 1990 c 422 s 10; 2001 c 213 s 19,30

#### **174.66 CONTINUATION OF CARRIER RULES.**

(a) Orders and directives in force, issued, or promulgated under authority of chapters 174A, 216A, 218, 219, 221, and 222 remain and continue in force and effect until repealed, modified, or superseded by duly authorized orders or directives of the commissioner of transportation. To the extent allowed under federal law or regulation, rules adopted under authority of the following sections are transferred to the commissioner of transportation and continue in force and effect until repealed, modified, or superseded by duly authorized rules of the commissioner:

(1) section 218.041 except rules related to the form and manner of filing railroad rates, railroad accounting rules, and safety rules;

(2) section 219.40;

(3) rules relating to rates or tariffs, or the granting, limiting, or modifying of permits under section 221.031, subdivision 1;

(4) rules relating to the sale, assignment, pledge, or other transfer of a stock interest in a corporation holding authority to operate as a permit carrier as prescribed in section 221.151, subdivision 1;

(5) rules relating to rates, charges, and practices under section 221.161, subdivision 4; and

(6) rules relating to rates, tariffs, or the granting, limiting, or modifying of permits under sections 221.121 and 221.151.

(b) The commissioner shall review the transferred rules, orders, and directives and, when appropriate, develop and adopt new rules, orders, or directives.

**History:** 1980 c 534 s 6; 1983 c 293 s 77; 1985 c 299 s 14; 1998 c 403 s 19; 1999 c 238 art 2 s 33; 2001 c 213 s 20,30; 2009 c 64 s 20

## PUBLIC SAFETY RADIO COMMUNICATIONS

### 174.70 PUBLIC SAFETY RADIO COMMUNICATIONS.

Subdivision 1. **Authority of commissioner.** The commissioner of transportation may exercise the powers granted in this chapter and in sections 403.21 to 403.34, to plan and implement the communications system as provided in sections 403.21 to 403.34.

Subd. 2. **State communications system implementation; towers and other facilities.**

(a) In order to facilitate construction and maintenance of the state's communications systems and to reduce the proliferation of communications towers, the commissioner may, by purchase, lease, gift, exchange, or other means, obtain sites for the erection of towers and the location of equipment and may construct buildings and structures needed for developing the state's communications systems.

(b) The commissioner may negotiate with commercial wireless service providers and other tower owners to obtain sites, towers, and equipment. Notwithstanding sections 161.433, 161.434, 161.45, and 161.46, the commissioner may by agreement lease, allow, or permit commercial wireless service providers or other tower owners to install privately owned equipment on state-owned lands, buildings, and other structures under the jurisdiction of the commissioner when it is practical and feasible to do so. The commissioner shall annually publish a list of state-owned tower sites that are available to commercial wireless service providers and other tower owners for installation of their equipment on a first-come, first-served basis for each tower or site. The commissioner may not make agreements that grant the exclusive use of towers. After the commissioner has agreed to make space available on a specific tower or at a specific site, the commissioner shall charge a site use fee for the value of the real property or structure made available. In lieu of a site use fee, the commissioner may make agreements with commercial wireless service providers or other tower owners to place state equipment on privately owned towers and may accept improvements such as tower reinforcement, reconstruction, site development, or other site improvements to the state's communications system facilities or real or personal property.

(c) This section does not create a right to install privately owned towers on the trunk highway right-of-way.

Subd. 3. **Deposit of fees; appropriation.** Fees collected under subdivision 2 must be



deposited in the trunk highway fund. The fees collected are appropriated to the commissioner to pay for developing and maintaining the communications systems that serve state agencies.

**History:** 1995 c 195 art 1 s 1; 1999 c 238 art 2 s 31; 1Sp2001 c 8 art 2 s 56,57; 1Sp2003 c 1 art 2 s 135

## COMMUTER RAIL

### 174.80 DEFINITIONS.

Subdivision 1. **Terms.** For the purposes of sections 174.80 to 174.90, the terms defined in this section have the meanings given them.

Subd. 2. **Advanced corridor plan.** "Advanced corridor plan" means a commuter rail plan that:

(1) contains a physical design component that identifies the physical design of facilities, including:

- (i) location, length, and termini of routes;
- (ii) maintenance facility locations;
- (iii) safety improvements;
- (iv) station locations and design; and
- (v) related park-and-ride, parking, and other transportation facilities;

(2) specifies track and signal improvements;

(3) addresses disability access;

(4) specifies intermodal coordination and connections with bus and light rail transit operation and routes;

(5) projects ridership, capital costs, operating costs, and revenues;

(6) identifies sources of funds for operating subsidies and funding for final design, construction, and operation;

(7) describes an implementation method;

(8) describes a plan for public involvement and public information;

(9) defines anticipated agreements with the railroads; and

(10) addresses land use impacts.

The preliminary design plan may include the draft environmental impact statement for the proposed commuter rail facilities.

Subd. 3. **Preliminary engineering plan.** "Preliminary engineering plan" means a

commuter rail plan that includes those items in the advanced corridor plan that relate to facilities proposed for construction, but with additional detail and specificity in satisfaction of applicable environmental requirements.

Subd. 4. **Final design plan.** "Final design plan" means a commuter rail plan that includes the items in the advanced corridor plan and the preliminary engineering plan, but with additional detail and specificity as needed for construction and operation.

**History:** 1999 c 230 s 19; 2005 c 56 s 1

#### **174.82 COMMUTER RAIL; COMMISSIONER'S DUTIES; CONTRACTS; LIABILITIES, RIGHTS, AND FINANCIAL CONSIDERATIONS.**

The planning, development, construction, operation, and maintenance of commuter rail track, facilities, and services are governmental functions, serve a public purpose, and are a matter of public necessity. The commissioner shall be responsible for all aspects of planning, developing, constructing, operating, and maintaining commuter rail, including system planning, advanced corridor planning, preliminary engineering, final design, construction, negotiating with railroads, and developing financial and operating plans. The commissioner may enter into a memorandum of understanding or agreement with a public or private entity, including a regional railroad authority, a joint powers board, and a railroad, to carry out these activities. The commissioner, or public entity contracting with the commissioner, may contract with a railroad that is a Class I railroad under federal law for the joint or shared use of the railroad's right-of-way or the construction, operation, or maintenance of rail track, facilities, or services for commuter rail purposes. Notwithstanding section 3.732, subdivision 1, clause (2), or section 466.01, subdivision 6, sections 466.04 and 466.06 govern the liability of the Class I railroad and its employees arising from the joint or shared use of the railroad right-of-way or the provision of commuter rail construction, operation, or maintenance services pursuant to the contract. Notwithstanding any law to the contrary, a contract with the Class I railroad for any commuter rail service, or joint or shared use of the railroad's right-of-way, may also provide for the allocation of financial responsibility, indemnification, and the procurement of insurance for the parties for all types of claims or damages. A contract entered into under this section does not affect rights of employees under the Federal Employers Liability Act or the federal Railway Labor Act.

**History:** 1999 c 230 s 20; 2006 c 206 s 1

#### **174.84 COMMUTER RAIL SYSTEM PLANNING.**

Subdivision 1. **General plan requirements.** By January 15, 2000, the commissioner shall adopt a commuter rail system plan to ensure that if commuter rail facilities are acquired, developed, constructed, owned, and operated in Minnesota, these activities will be done in an efficient, cost-effective manner, and in coordination with buses and other transportation modes

and facilities. The commissioner shall consult with affected regional railroad authorities and may incorporate into its plan elements of the plans of regional railroad authorities in order to avoid duplication of efforts. The commissioner may periodically update the system plan.

Subd. 2. **Approval of commuter rail system plan.** The commuter rail system plan must be approved by metropolitan planning organizations in areas in which commuter rail will be located before the commissioner may begin final design of commuter rail facilities. Following approval of the plan, the commissioner shall act in conformity with the plan. The commissioner shall ensure that final design plans are consistent with the commuter rail plan.

Subd. 3. **Engineering standards.** The plan must include engineering standards that provide for integrated operation of all commuter rail equipment, facilities, and services, including security, station design parameters, fare box systems, and safety.

Subd. 4. **Integration of system.** The commissioner and metropolitan planning organizations shall ensure that if commuter rail facilities are planned, designed, and implemented in Minnesota, they will be planned, designed, and implemented in such a way as to move transit users to, from, and within the metropolitan area, and to provide a unified, integrated, and efficient multimodal transportation system with rail transit lines that interface with each other and with other transportation facilities.

**History:** 1999 c 230 s 21

#### **174.86 COMMUTER RAIL PLAN; REVIEW.**

Subdivision 1. **Advanced corridor plan; public hearing.** Before a final design plan is prepared for commuter rail facilities, the commissioner must hold a public hearing on the physical design component of the advanced corridor plan. The commissioner must provide appropriate public notice of the hearing and publicity to ensure that affected parties have an opportunity to present their views at the hearing. The commissioner shall summarize the proceedings and testimony and maintain the record of a hearing held under this subdivision, including any written statements submitted.

Subd. 2. **Physical design component; local participation.** At least 30 days before the hearing under subdivision 1, the commissioner shall submit the physical design component of the advanced corridor plan to the governing body of each statutory and home rule charter city, county, and town in which the route is to be located. Within 45 days after the hearing under subdivision 1, the city, county, or town shall review and comment on the plan. Within 45 days of the hearing, a city or town shall approve or disapprove the location and design of the station to be located in the city or town. A city or town that disapproves shall describe specific amendments to the plan that, if adopted, would cause the city or town to withdraw its disapproval. Failure to comment in writing within 45 days after the hearing is deemed to be accepted unless an extension of time is

agreed to by the metropolitan planning organization and the commissioner of transportation.

Subd. 3. **Modification of advanced corridor plan.** After the hearing under subdivision 1, and after the receipt of comment under subdivision 2, the commissioner may modify the advanced corridor plan.

Subd. 4. **Advanced corridor plan; metropolitan planning organization review.** Before constructing commuter rail facilities, the commissioner shall submit the advanced corridor plan to each metropolitan planning organization in which the route is to be located. The metropolitan planning organization shall hold a hearing on the plan allowing the commissioner, local governmental units, and other persons to present their views as to whether the plan is consistent with the metropolitan planning organization's development guide. Within 60 days after the hearing, the metropolitan planning organization shall review the plan submitted by the commissioner to determine whether it is consistent with the development guide. If the plan is consistent with the development guide, the metropolitan planning organization shall approve it. If the plan is not consistent with the development guide, the metropolitan planning organization shall submit to the commissioner proposed amendments to the plan to make it consistent with the development guide. The commissioner shall incorporate the proposed amendments into the final design plan.

Subd. 5. **Commuter Rail Corridor Coordinating Committee.** (a) A Commuter Rail Corridor Coordinating Committee shall be established to advise the commissioner on issues relating to the alternatives analysis, environmental review, advanced corridor planning, preliminary engineering, final design, implementation method, construction of commuter rail, public involvement, land use, service, and safety. The Commuter Rail Corridor Coordinating Committee shall consist of:

(1) one member representing each significant funding partner in whose jurisdiction the line or lines are located;

(2) one member appointed by each county in which the corridors are located;

(3) one member appointed by each city in which advanced corridor plans indicate that a station may be located;

(4) two members appointed by the commissioner, one of whom shall be designated by the commissioner as the chair of the committee;

(5) one member appointed by each metropolitan planning organization through which the commuter rail line may pass; and

(6) one member appointed by the president of the University of Minnesota, if a designated corridor provides direct service to the university.

(b) A joint powers board existing on April 1, 1999, consisting of local governments along a commuter rail corridor, shall perform the functions set forth in paragraph (a) in place of the committee.

(c) Notwithstanding section 15.059, subdivision 5, the committee does not expire.

**History:** 1999 c 230 s 22; 1Sp2005 c 6 art 3 s 80

#### **174.88 COMMUTER RAIL FUNDING.**

Subdivision 1. **Federal fund applications.** The commissioner, in cooperation with appropriate metropolitan planning organizations, may apply for funding from federal, state, regional, local, and private sources for commuter rail facility construction, operation, implementation, maintenance, and improvement.

Subd. 2. **Expenditure of state funds.** The commissioner shall not spend any state funds for construction or equipment of commuter rail facilities unless the funds have been appropriated by law specifically for those purposes. The commissioner shall not spend state funds to study commuter rail unless the funds are appropriated in legislation that identifies the route, including origin and destination.

**History:** 1999 c 230 s 23; 2000 c 479 art 1 s 20; 1Sp2001 c 8 art 2 s 58

#### **174.90 COMMUTER RAIL OPERATION.**

The commissioner may contract for operation of commuter rail facilities with the Metropolitan Council or other public or private entities and shall commence revenue service after an appropriate period of start-up to ensure satisfactory performance. The commissioner shall coordinate with transit providers to ensure integration of the commuter rail system with bus and light rail transit service to avoid duplication of service and to ensure the greatest access to commuter rail lines in suburban and urban areas.

**History:** 1999 c 230 s 24

#### **174.92 EXERCISE OF POWER; COMMUTER RAIL.**

The commissioner of transportation may exercise the powers granted in this chapter, as necessary, to plan, design, acquire, construct, and equip commuter rail facilities.

**History:** 2008 c 269 s 1