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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 2171

03/06/2017 Authored by Drazkowski The bill was read for the first time and referred to the Committee on Transportation and Regional Governance Policy

1.1 A bill for an act
1.2 relating to transportation; establishing various requirements governing passenger
1.3 rail; making technical changes; amending Minnesota Statutes 2016, sections
1.4 174.634; 174.636, subdivision 4, by adding a subdivision; proposing coding for
1.5 new law in Minnesota Statutes, chapter 174.

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

1.7 ARTICLE 1
1.8 HIGH-SPEED PASSENGER RAIL

1.9 Section 1. 174.638] HIGH-SPEED PASSENGER RAIL.

1.10 Subdivision 1. Corridor designation required. (a) The commissioner and any political
1.11 subdivision may expend public funds on high-speed passenger rail only for a corridor or
1.12 line as provided under this section.

1.13 (b) The limitation under paragraph (a) includes expenditures, whether direct or through
1.14 grants, for rail corridor investment planning, rail corridor study, feasibility analysis,
1.15 alternatives analysis, environmental analysis, design, preliminary or final engineering, other
1.16 project development, property acquisition, equipment, construction, operations, and capital
1.17 maintenance.

1.18 Subd. 2. River route corridor. (a) For the portion of the route in this state, a high-speed
1.19 passenger rail line connecting Chicago and the Minneapolis-St. Paul metropolitan area must
1.20 be located in the Mississippi River corridor, as identified by the commissioner and Federal
1.21 Railroad Administration.

1.22 (b) The high-speed passenger rail line in this subdivision is a designated line for the
1.23 purposes of subdivision 1.

2.1 Subd. 3. **Assessment.** Three years after the year revenue operations of a high-speed
 2.2 passenger rail line commence, and every other year thereafter, the commissioner must
 2.3 arrange for an independent high-speed rail effectiveness assessment of all high-speed
 2.4 passenger rail service. At a minimum, the assessment must evaluate rail service costs,
 2.5 including but not limited to capital, maintenance, and operating costs; performance outcomes;
 2.6 and impacts on mobility and highway congestion. The commissioner must submit the
 2.7 assessment to the chairs and ranking minority members of the legislative committees with
 2.8 jurisdiction over transportation policy and finance and capital investment.

2.9 Subd. 4. **Limitation; additional designations.** Except as provided in subdivision 2, no
 2.10 additional high-speed passenger rail corridors or lines may be designated until after the first
 2.11 high-speed rail effectiveness assessment under subdivision 3 is submitted.

2.12 Subd. 5. **Limitation; public-private partnerships.** Notwithstanding section 174.02,
 2.13 subdivision 9, the commissioner and any political subdivision are prohibited from entering
 2.14 into an agreement with a private entity that is related to financing or funding a high-speed
 2.15 passenger rail project.

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

2.17 **ARTICLE 2**

2.18 **PASSENGER RAIL DEVELOPMENT AND APPROVAL**

2.19 Section 1. **[174.631] PASSENGER RAIL; DEFINITIONS.**

2.20 Subdivision 1. **Scope.** For the purposes of sections 174.6325 to 174.638, the terms
 2.21 defined in this section have the meanings given them.

2.22 Subd. 2. **Commissioner.** "Commissioner" means the commissioner of transportation.

2.23 Subd. 3. **High-speed passenger rail.** "High-speed passenger rail" means passenger rail
 2.24 that is able to operate at a top speed of at least 110 miles per hour.

2.25 Subd. 4. **Responsible authority.** "Responsible authority" means the commissioner or
 2.26 a public or private entity as provided under section 174.632, subdivision 2, having primary
 2.27 responsibility for development of a particular passenger rail project, including a passenger
 2.28 rail facility.

2.29 Subd. 5. **Stakeholder.** "Stakeholder" includes owners of land in fee or a contract for
 2.30 deed vendee that is located along an intercity passenger rail route or corridor, whether
 2.31 existing or proposed, or within one mile of any part of the geographic area composing a
 2.32 proposed corridor.

3.1 Sec. 2. **[174.6325] PASSENGER RAIL; PROJECT DEVELOPMENT.**

3.2 **Subdivision 1. Multimodal corridor capacity analysis.** (a) As part of passenger rail
3.3 project development and prior to initiating a multimodal alternatives analysis under this
3.4 section, the responsible authority must perform a multimodal corridor capacity analysis.

3.5 (b) At a minimum, the analysis must:

3.6 (1) examine current transportation capacity within the proposed passenger rail corridor,
3.7 considering (i) programmed and planned transportation projects, and (ii) all transportation
3.8 modes and options, both public and private; and

3.9 (2) evaluate the adequacy of transportation capacity based on both current information
3.10 and projections of demand, growth, and other relevant factors.

3.11 (c) Nothing in this subdivision prevents inclusion of the multimodal corridor capacity
3.12 analysis in other corridor investment plans or evaluations, including a feasibility study or
3.13 environmental analysis.

3.14 **Subd. 2. Multimodal alternatives analysis.** (a) As part of passenger rail project
3.15 development and prior to initiating an environmental analysis or preliminary engineering,
3.16 the responsible authority must perform a multimodal alternatives analysis.

3.17 (b) In addition to any other information or requirements, the multimodal alternatives
3.18 analysis must:

3.19 (1) consider the multimodal corridor capacity analysis findings and projections;

3.20 (2) include (i) a no-build option, and (ii) options for each applicable transportation mode,
3.21 including highways;

3.22 (3) evaluate capacity adequacy under each option;

3.23 (4) identify the most cost-effective option; and

3.24 (5) review conformity with (i) the comprehensive statewide freight and passenger rail
3.25 plan under section 174.03, subdivision 1b; (ii) the statewide multimodal transportation plan;
3.26 and (iii) the 20-year statewide highway capital investment plan under section 174.03,
3.27 subdivision 1c.

3.28 (c) Nothing in this subdivision prevents inclusion of the multimodal alternatives analysis
3.29 in a subsequent environmental analysis.

3.30 **Subd. 3. Multimodal alternatives analysis; public hearing and comment.** (a) A
3.31 multimodal alternatives analysis for a passenger rail project, including any associated

4.1 alignment or mode recommendations, may not be finalized until after (1) public hearings
 4.2 under this subdivision, and (2) review and due consideration of any public comment.

4.3 (b) The commissioner, in consultation with the responsible authority, must hold hearings
 4.4 on a draft alternatives analysis. Hearings must be held within each county and statutory or
 4.5 home rule charter city located along the proposed route or within one mile of any part of
 4.6 the geographic area composing the proposed corridor. The commissioner must publicize
 4.7 and provide adequate public notice of each hearing to ensure stakeholders have an opportunity
 4.8 to participate and present views on the proposed corridor at the hearings.

4.9 (c) For purposes of this subdivision, "adequate public notice" includes, at a minimum:
 4.10 (1) publishing notice in at least four editions of each newspaper and regular news periodical
 4.11 in circulation along the proposed route or corridor, through any legal notice section and by
 4.12 press release; and (2) providing the notice of the hearing no earlier than 60 days prior to the
 4.13 hearing date.

4.14 (d) The commissioner must summarize the proceedings and testimony, and maintain on
 4.15 the department's Web site the record of each hearing held under this subdivision. The
 4.16 commissioner must also maintain a Web-based docket system where public comments on
 4.17 the project may be submitted and identified on an ongoing basis.

4.18 Sec. 3. Minnesota Statutes 2016, section 174.634, is amended to read:

4.19 **174.634 PASSENGER RAIL; FUNDING; EXPENDITURES.**

4.20 Subdivision 1. **Sources of funding.** (a) Following approval of a passenger rail project
 4.21 under subdivision 3, the commissioner may apply for funding from federal, state, regional,
 4.22 local, and private sources to carry out the commissioner's ~~duties in~~ responsibilities under
 4.23 section 174.632.

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

4.26 Subd. 2. **Expenditure of state funds; project study and plans.** The commissioner and
 4.27 any political subdivision are prohibited from expending state funds to study or plan for a
 4.28 passenger rail project, including a corridor investment plan and a corridor capacity analysis
 4.29 or an alternatives analysis under section 174.6325.

4.30 Subd. 3. **Expenditure of state funds; project development and operations.** (a) The
 4.31 commissioner and any political subdivision are prohibited from expending state funds,
 4.32 whether directly or through grants, for passenger rail project development and operations
 4.33 unless:

5.1 (1) a corridor capacity analysis and an alternatives analysis under section 174.6325 have
 5.2 been completed;

5.3 (2) either (i) the funds have been appropriated by a law that specifically identifies the
 5.4 route and the expenditure purposes; or (ii) the specific passenger rail project is authorized
 5.5 by law; and

5.6 (3) the governor approves a certificate of need finding that the project serves a public
 5.7 purpose, is a matter of public necessity, and is the preferred alternative to meet transportation
 5.8 needs in the corridor.

5.9 (b) Passenger rail project development and operations under paragraph (a) includes but
 5.10 is not limited to environmental analysis, design, preliminary or final engineering, property
 5.11 acquisition, equipment, construction, operations, and capital maintenance. Passenger rail
 5.12 project development and operations does not include the reasonable costs of public hearings
 5.13 or duties under section 174.6325, subdivision 3.

5.14 Sec. 4. Minnesota Statutes 2016, section 174.636, subdivision 4, is amended to read:

5.15 Subd. 4. **Public hearings.** The commissioner shall hold public hearings as provided
 5.16 under section 174.6325 and as required by federal requirements.

5.17 Sec. 5. Minnesota Statutes 2016, section 174.636, is amended by adding a subdivision to
 5.18 read:

5.19 Subd. 5. **Public property.** Unless a passenger rail project is approved under section
 5.20 174.634, subdivision 3, the commissioner, notwithstanding subdivision 1, and any political
 5.21 subdivision are prohibited from:

5.22 (1) acquiring property for the purposes of a passenger rail project or to primarily support
 5.23 passenger rail service; or

5.24 (2) entering into an agreement providing for property use for the purposes of the passenger
 5.25 rail project or primarily to support passenger rail service.

5.26 Sec. 6. **REQUIREMENTS FOR PASSENGER RAIL TRANSIT PROJECTS.**

5.27 The requirements established in this act apply to any intercity passenger rail project that
 5.28 is in project development, including but not limited to design or engineering, as of the
 5.29 effective date of this section.

6.1 Sec. 7. **REVISOR'S INSTRUCTION; RECODIFICATION.**

6.2 The revisor of statutes shall recodify (1) Minnesota Statutes, section 174.632, subdivision
6.3 1, as Minnesota Statutes, section 174.631, subdivision 2; and (2) Minnesota Statutes, section
6.4 174.632, subdivision 2, as Minnesota Statutes, section 174.636, subdivision 1a. The revisor
6.5 shall revise the headnote and correct any cross-references made necessary by this
6.6 recodification.

6.7 Sec. 8. **EFFECTIVE DATE.**

6.8 Sections 1 to 7 are effective the day following final enactment.

6.9 **ARTICLE 3**

6.10 **PASSENGER RAIL PRIORITIZATION**

6.11 Section 1. **BEST PRACTICES FOR PASSENGER RAIL PROJECT SELECTION.**

6.12 (a) The commissioner of transportation must develop, adopt, and implement best practices
6.13 for passenger rail project evaluation and selection in consultation with the Federal Railroad
6.14 Administration, metropolitan planning organizations, regional development commissions,
6.15 area transportation partnerships, local governments, the Metropolitan Council, and
6.16 transportation stakeholders as defined in Minnesota Statutes, section 174.631. The
6.17 commissioner must begin implementing the best practices no later than October 1, 2018,
6.18 and may update the best practices as appropriate.

6.19 (b) As part of best practices development and at least four weeks prior to final adoption,
6.20 the commissioner must submit a legislative report to the chairs and ranking minority members
6.21 of the legislative committees with jurisdiction over transportation policy and finance for
6.22 review and comment on the proposed rail project evaluation and selection process.

6.23 (c) The best practices adopted under this section must include:

6.24 (1) an overview of passenger rail planning and current rail plans;

6.25 (2) a description of the selection process, including ranking criteria and the weight
6.26 assigned each criterion;

6.27 (3) identification and application of all relevant criteria contained in enacted Minnesota
6.28 law, federal law, or added by the commissioner;

6.29 (4) identification to the stakeholders and general public of each candidate project selected
6.30 under each selection process, including all the projects considered that are not selected;

7.1 (5) local governmental involvement in the process of scoring and ranking candidate
7.2 projects, as appropriate; and

7.3 (6) means of publicizing scoring, ranking, and decision outcomes concerning each
7.4 candidate project, including the projects that were considered and not selected.

7.5 (d) The commissioner must publicize the best practices and updates on the department's
7.6 Web site and through other effective means selected by the commissioner.

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

APPENDIX
Article locations in 17-3804

ARTICLE 1	HIGH-SPEED PASSENGER RAIL	Page.Ln 1.7
ARTICLE 2	PASSENGER RAIL DEVELOPMENT AND APPROVAL	Page.Ln 2.17
ARTICLE 3	PASSENGER RAIL PRIORITIZATION	Page.Ln 6.9