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State of Minnesota  
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH  
SESSION

HOUSE FILE No. **735**

February 8, 2007

Authored by Lieder and Erhardt

The bill was read for the first time and referred to the Committee on Finance

A bill for an act

relating to transportation; authorizing state entry onto real property for geotechnical investigation; modifying provisions relating to bridges and culverts; regulating money allocated for rail service improvements; regulating state rail bank property; imposing penalties; amending Minnesota Statutes 2006, sections 117.041, by adding a subdivision; 165.01; 165.03; 222.50, subdivision 7; 222.63, subdivision 4, by adding a subdivision.

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

Section 1. Minnesota Statutes 2006, section 117.041, is amended by adding a subdivision to read:

Subd. 3. **Geotechnical investigation before eminent domain proceedings.** (a) A state agency by order of the commissioner or a political subdivision by resolution may enter property for purposes of investigation, monitoring, testing, surveying, boring, or other similar activities necessary or appropriate to perform geotechnical investigations.

(b) At least ten days before entering the property, the state agency or political subdivision must serve notice on the property owner requesting permission to enter the property, stating the approximate time and purpose of the entry, and giving the owner the option of refusing entry. If the property owner refuses to consent to the entry, the state agency or political subdivision must apply for a court order authorizing the entry and the removal of any sample or portion from the property, giving notice of the court order to the property owner. The court shall issue an order if the state agency or political subdivision meets the standards in paragraph (a). Notices under this paragraph must be served in the same manner as a summons in a civil action.

2.1 (c) The state agency or political subdivision must not cause any unnecessary damage  
 2.2 to the property and must compensate the property owner for any damages actually incurred  
 2.3 as a result of the geotechnical investigations.

2.4 Sec. 2. Minnesota Statutes 2006, section 165.01, is amended to read:

2.5 **165.01 DEFINITIONS.**

2.6 Subdivision 1. **Scope.** For the purposes of this chapter, the terms defined in this  
 2.7 section and section 160.02 shall have the same meanings given them.

2.8 Subd. 2. **AASHTO manual.** "AASHTO manual" means the Manual for Condition  
 2.9 Evaluation of Bridges, published by the American Association of State Highway and  
 2.10 Transportation Officials.

2.11 Sec. 3. Minnesota Statutes 2006, section 165.03, is amended to read:

2.12 **165.03 STRENGTH OF BRIDGE; INSPECTION.**

2.13 Subdivision 1. **Standards generally.** Each bridge, including a privately owned  
 2.14 bridge, must conform to the strength, width, clearance, and safety standards imposed  
 2.15 by the commissioner for the connecting highway or street. This subdivision applies to  
 2.16 a bridge that is constructed after August 1, 1989, on any public highway or street. The  
 2.17 bridge must have sufficient strength to support with safety the maximum vehicle weights  
 2.18 allowed under sections 169.822 to 169.829 and must have the minimum width specified  
 2.19 in section 165.04, subdivision 3.

2.20 Subd. 1a. **Inspection.** (a) Each bridge must be inspected annually, unless a longer  
 2.21 interval not to exceed two years for bridges or four years for bridges classified as culverts  
 2.22 is authorized by the commissioner. The commissioner's authorization must be based  
 2.23 on factors including, but not limited to, the age and condition of the bridge, the rate of  
 2.24 deterioration of the bridge, the type of structure, the susceptibility of the bridge to failure,  
 2.25 and the characteristics of traffic on the bridge. Interim inspections at intervals of less than  
 2.26 one year may be necessary on bridges that are posted, bridges subjected to extreme scour  
 2.27 conditions, bridges subject to significant substructure movement or settlement, and for  
 2.28 other reasons as specified or inferred in the AASHTO manual.

2.29 (b) The thoroughness of each inspection depends on such factors as age, traffic  
 2.30 characteristics, state of maintenance, and known deficiencies. The evaluation of these  
 2.31 factors is the responsibility of the engineer assigned the responsibility for inspection as  
 2.32 defined by rule adopted by the commissioner of transportation.

2.33 Subd. 2. **Inspection and inventory responsibilities; rules; forms.** (a) The  
 2.34 commissioner of transportation shall adopt official inventory and bridge inspection report

3.1 forms for use in making bridge inspections by the owners or highway authorities specified  
 3.2 by this subdivision. ~~Bridge~~ Inspections ~~shall~~ must be made at regular intervals, not to  
 3.3 exceed two years for bridges and not to exceed four years for culverts, by the following  
 3.4 owner or official:

3.5 (1) the commissioner of transportation for all bridges located wholly or partially  
 3.6 within or over the right-of-way of a state trunk highway;

3.7 (2) the county highway engineer for all bridges located wholly or partially within  
 3.8 or over the right-of-way of any county or ~~township~~ town road, or any street within a  
 3.9 municipality ~~which~~ that does not have a city engineer regularly employed;

3.10 (3) the city engineer for all bridges located wholly or partially within or over the  
 3.11 right-of-way of any street located within or along municipal limits;

3.12 (4) the commissioner of transportation in case of a toll bridge that is used by the  
 3.13 general public and that is not inspected and certified under subdivision 6; provided, that the  
 3.14 commissioner of transportation may assess the owner for the costs of ~~such~~ the inspection;

3.15 (5) the owner of a bridge over a public highway or street or that carries a roadway  
 3.16 designated for public use by a public authority, if not required to be inventoried and  
 3.17 inspected under clause (1), (2), (3), or (4).

3.18 (b) The commissioner of transportation shall prescribe the standards for bridge  
 3.19 inspection and inventory by rules. The owner or highway authority shall inspect and  
 3.20 inventory in accordance with these standards and furnish the commissioner with such data  
 3.21 as may be necessary to maintain a central inventory.

3.22 **Subd. 3. County inventory and inspection records and reports.** The county  
 3.23 engineer shall maintain a complete inventory record of all bridges as set forth in  
 3.24 subdivision 2, paragraph (a), clause (2), with the inspection reports thereof, and shall  
 3.25 certify annually to the commissioner, as prescribed by the commissioner, that inspections  
 3.26 have been made at regular intervals, not to exceed two years for bridges and not to  
 3.27 exceed four years for culverts. A report of the inspections ~~shall~~ must be filed annually,  
 3.28 on or before February 15 of each year, with the county auditor or town clerk, or the  
 3.29 governing body of the municipality. The report ~~shall~~ must contain recommendations for  
 3.30 the correction of; or legal posting of load limits on any bridge or structure that is found to  
 3.31 be understrength or unsafe.

3.32 **Subd. 4. Municipal inventory and inspection records and reports.** The  
 3.33 city engineer shall maintain a complete inventory record of all bridges as set forth in  
 3.34 subdivision 2, paragraph (a), clause (3), with the inspection reports thereof, and shall  
 3.35 certify annually to the commissioner, as prescribed by the commissioner, that inspections  
 3.36 have been made at regular intervals, not to exceed two years for bridges and not to exceed

4.1 four years for culverts. A report of the inspections ~~shall~~ must be filed annually, on or  
 4.2 before February 15 of each year, with the governing body of the municipality. The report  
 4.3 ~~shall~~ must contain recommendations for the correction of; or legal posting of load limits  
 4.4 on any bridge or structure that is found to be understrength or unsafe.

4.5 Subd. 5. **Agreement.** Agreements may be made among the various units of  
 4.6 governments, or between governmental units and qualified engineering personnel to  
 4.7 carry out the responsibilities for the bridge inspections and reports, as established by  
 4.8 subdivision 2.

4.9 Subd. 6. **Other bridges.** The owner of a toll bridge and the owner of a bridge  
 4.10 described in subdivision 2, paragraph (a), clause (5), shall certify to the commissioner, as  
 4.11 prescribed by the commissioner, that inspections of the bridge have been made at regular  
 4.12 intervals, not to exceed two years for bridges and not to exceed four years for culverts.  
 4.13 The certification ~~shall~~ must be accompanied by a report of the inspection. The report ~~shall~~  
 4.14 must contain recommendations for the correction of or legal posting of load limitations if  
 4.15 the bridge is found to be understrength or unsafe.

4.16 Subd. 7. **Department of Natural Resources bridge.** (a) Notwithstanding  
 4.17 subdivision 2, the commissioners of transportation and natural resources shall negotiate a  
 4.18 memorandum of understanding that governs the inspection of bridges owned, operated,  
 4.19 or maintained by the commissioner of natural resources.

4.20 (b) The memorandum of understanding must provide for:

4.21 (1) the inspection and inventory of bridges subject to federal law or regulations;

4.22 (2) the frequency of inspection of bridges described in paragraph (a); and

4.23 (3) who may perform inspections required under the memorandum of understanding.

4.24 Sec. 4. Minnesota Statutes 2006, section 222.50, subdivision 7, is amended to read:

4.25 Subd. 7. **Expenditures.** (a) The commissioner may expend money from the rail  
 4.26 service improvement account for the following purposes:

4.27 (1) to make transfers as provided under section 222.57 or to pay interest adjustments  
 4.28 on loans guaranteed under the state rail user and rail carrier loan guarantee program;

4.29 (2) to pay a portion of the costs of capital improvement projects designed to  
 4.30 improve rail service ~~including construction or improvement of short segments of rail line~~  
 4.31 ~~such as side track, team track, and connections between existing lines, and construction~~  
 4.32 ~~and improvement of loading, unloading, storage, and transfer facilities~~ of a rail user or  
 4.33 a rail carrier;

4.34 (3) to pay a portion of the costs of rehabilitation projects designed to improve rail  
 4.35 service of a rail user or a rail carrier;

5.1 (4) to acquire, maintain, manage, and dispose of railroad right-of-way pursuant to  
5.2 the state rail bank program;

5.3 ~~(4)~~ (5) to provide for aerial photography survey of proposed and abandoned railroad  
5.4 tracks for the purpose of recording and reestablishing by analytical triangulation the  
5.5 existing alignment of the in-place track;

5.6 ~~(5)~~ (6) to pay a portion of the costs of acquiring a rail line by a regional railroad  
5.7 authority established pursuant to chapter 398A;

5.8 ~~(6)~~ (7) to pay the state matching portion of federal grants for rail-highway grade  
5.9 crossing improvement projects.

5.10 (b) All money derived by the commissioner from the disposition of railroad  
5.11 right-of-way or of any other property acquired pursuant to sections 222.46 to 222.62 shall  
5.12 be deposited in the rail service improvement account.

5.13 Sec. 5. Minnesota Statutes 2006, section 222.63, subdivision 4, is amended to read:

5.14 Subd. 4. **Disposition permitted.** (a) The commissioner may lease any rail line or  
5.15 right-of-way held in the state rail bank or enter into an agreement with any person for the  
5.16 operation of any rail line or right-of-way for any of the purposes set forth in subdivision 2  
5.17 in accordance with a fee schedule to be developed by the commissioner.

5.18 (b) The commissioner may convey any rail line or right-of-way, for consideration or  
5.19 for no consideration and upon other terms as the commissioner may determine to be in  
5.20 the public interest, to any other state agency or to a governmental subdivision of the state  
5.21 having power by law to utilize it for any of the purposes set forth in subdivision 2.

5.22 (c) The commissioner may convey a portion of previously acquired rail bank  
5.23 right-of-way to a state agency or governmental subdivision when the commissioner  
5.24 determines that:

5.25 (1) the portion to be conveyed is in excess of that needed for the purposes stated in  
5.26 subdivision 2;

5.27 (2) the conveyance is upon terms and conditions agreed upon by both the  
5.28 commissioner and the state agency or governmental subdivision;

5.29 (3) after the sale, the rail bank corridor will continue to meet the future public and  
5.30 commercial transportation and transmission needs of the state; and

5.31 (4) the conveyance will not reduce the width of the rail bank corridor to less than  
5.32 ~~50~~ 100 feet.

5.33 (d) The commissioner may lease previously acquired state rail bank right-of-way to  
5.34 a state agency or governmental subdivision or to a private entity for nontransportation  
5.35 purposes when:

6.1 (1) the portion to be leased is in excess of that needed for the purposes stated in  
6.2 subdivision 2;

6.3 (2) the lease will not reduce the useable width of the rail bank corridor to less than  
6.4 ~~50~~ 100 feet;

6.5 (3) the cost of the lease is based on the fair market value of the portion to be leased,  
6.6 as determined by appraisal;

6.7 (4) the lease allows the commissioner to terminate the lease on 90 days' written  
6.8 notice to the lessee; and

6.9 (5) the lease prohibits the construction or erection of any permanent structure within  
6.10 the ~~50-foot~~ 100-foot rail bank corridor and requires any structure erected on the leased  
6.11 property to be removed and the land restored to its original condition on 90 days' written  
6.12 notice to the lessee.

6.13 (e) Proceeds from a sale or lease must be deposited in the rail bank maintenance  
6.14 account described in subdivision 8.

6.15 Sec. 6. Minnesota Statutes 2006, section 222.63, is amended by adding a subdivision  
6.16 to read:

6.17 Subd. 9. Rail bank property use; misdemeanors. (a) Except for the actions of  
6.18 road authorities and their agents, employees, and contractors, and of utilities, in carrying  
6.19 out their duties imposed by permit, law, or contract, and except as otherwise provided in  
6.20 this section, it is unlawful to perform any of the following activities on rail bank property:

6.21 (1) obstruct any trail;

6.22 (2) deposit snow or ice;

6.23 (3) remove or place any earth, gravel, or rock without authorization;

6.24 (4) obstruct or remove any ditch-draining device, or drain any harmful or dangerous  
6.25 materials;

6.26 (5) erect a fence, or place or maintain any advertising, sign, or memorial;

6.27 (6) remove, injure, displace, or destroy right-of-way markers or reference or witness  
6.28 monuments or markers placed to preserve section or quarter-section corners defining  
6.29 rail bank property limits;

6.30 (7) drive upon any portion of rail bank property, except at approved crossings, and  
6.31 except where authorized for snowmobiles, emergency vehicles, or maintenance vehicles;

6.32 (8) deface, mar, damage, or tamper with any structure, work, material, sign, marker,  
6.33 paving, guardrail, drain, or any other rail bank appurtenance; or

6.34 (9) park, overhang, or abandon any unauthorized vehicle or implement of husbandry  
6.35 on, across, or over the limits of rail bank property.

7.1 (b) Any violation of this subdivision is a misdemeanor.

7.2 (c) The cost to remove, repair, or perform any other corrective action necessitated by

7.3 a violation of this subdivision may be charged to the violator.