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State of Minnesota
HOUSE OF REPRESENTATIVES

**EIGHTY-FIFTH
SESSION**

HOUSE FILE No. 2828

February 12, 2008

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The bill was read for the first time and referred to the Committee on Local Government and Metropolitan Affairs

1.1 A bill for an act
1.2 relating to local government; permitting an owner of property on an island to
1.3 obtain a cartway to obtain access from the property to a navigable waterway;
1.4 amending Minnesota Statutes 2006, section 164.08, subdivision 2.

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

1.6 Section 1. Minnesota Statutes 2006, section 164.08, subdivision 2, is amended to read:

1.7 Subd. 2. **Mandatory establishment; conditions.** (a) Upon petition presented to
1.8 the town board by the owner of a tract of land containing at least five acres, who has no
1.9 access thereto except over a navigable waterway or over the lands of others, or whose
1.10 access thereto is less than two rods in width, the town board by resolution shall establish
1.11 a cartway at least two rods wide connecting the petitioner's land with a public road. A
1.12 town board shall establish a cartway upon a petition of an owner of a tract of land that,
1.13 as of January 1, 1998, was on record as a separate parcel, contained at least two but less
1.14 than five acres, and has no access thereto except over a navigable waterway or over the
1.15 lands of others. The town board may select an alternative route other than that petitioned
1.16 for if the alternative is deemed by the town board to be less disruptive and damaging to
1.17 the affected landowners and in the public's best interest.

1.18 (b) In an unorganized territory, the board of county commissioners of the county in
1.19 which the tract is located shall act as the town board. The proceedings of the town board
1.20 shall be in accordance with section 164.07.

1.21 (c) The amount of damages shall be paid by the petitioner to the town before
1.22 such cartway is opened. For the purposes of this subdivision damages shall mean the
1.23 compensation, if any, awarded to the owner of the land upon which the cartway is
1.24 established together with the cost of professional and other services, hearing costs,

2.1 administrative costs, recording costs, and other costs and expenses which the town may
2.2 incur in connection with the proceedings for the establishment of the cartway. The town
2.3 board may by resolution require the petitioner to post a bond or other security acceptable
2.4 to the board for the total estimated damages before the board takes action on the petition.

2.5 (d) Town road and bridge funds shall not be expended on the cartway unless the town
2.6 board, or the county board acting as the town board in the case of a cartway established
2.7 in an unorganized territory, by resolution determines that an expenditure is in the public
2.8 interest. If no resolution is adopted to that effect, the grading or other construction work
2.9 and the maintenance of the cartway is the responsibility of the petitioner, subject to the
2.10 provisions of section 164.10.

2.11 (e) After the cartway has been constructed the town board, or the county board in
2.12 the case of unorganized territory, may by resolution designate the cartway as a private
2.13 driveway with the written consent of the affected landowner in which case from the
2.14 effective date of the resolution no town road and bridge funds shall be expended for
2.15 maintenance of the driveway; provided that the cartway shall not be vacated without
2.16 following the vacation proceedings established under section 164.07.

2.17 (f) If a tract of land described in paragraph (a) is on an island that is not accessible
2.18 by a bridge usable by motor vehicles, the town board shall, upon petition of the property
2.19 owner, by resolution establish a cartway that provides the property owner reasonable
2.20 access to a navigable waterway by motor vehicle. The access point must be one at which
2.21 it would be reasonably possible for the property owner to arrive at or depart from the
2.22 island by boat or snowmobile, depending upon the season.

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