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State of Minnesota
HOUSE OF REPRESENTATIVES

**EIGHTY-FIFTH
SESSION**

HOUSE FILE No. 3630

March 3, 2008

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The bill was read for the first time and referred to the Committee on Public Safety and Civil Justice

1.1 A bill for an act
1.2 relating to civil actions; providing that a contract for commuter rail may not
1.3 include tort immunity for a class I railroad; amending Minnesota Statutes 2006,
1.4 section 174.82.

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

1.6 Section 1. Minnesota Statutes 2006, section 174.82, is amended to read:

1.7 **174.82 COMMUTER RAIL; COMMISSIONER'S DUTIES; CONTRACTS;**
1.8 **LIABILITIES, RIGHTS, AND FINANCIAL CONSIDERATIONS.**

1.9 The planning, development, construction, operation, and maintenance of commuter
1.10 rail track, facilities, and services are governmental functions, serve a public purpose, and
1.11 are a matter of public necessity. The commissioner shall be responsible for all aspects of
1.12 planning, developing, constructing, operating, and maintaining commuter rail, including
1.13 system planning, advanced corridor planning, preliminary engineering, final design,
1.14 construction, negotiating with railroads, and developing financial and operating plans.

1.15 The commissioner may enter into a memorandum of understanding or agreement with a
1.16 public or private entity, including a regional railroad authority, a joint powers board, and
1.17 a railroad, to carry out these activities. The commissioner, or public entity contracting
1.18 with the commissioner, may contract with a railroad that is a Class I railroad under
1.19 federal law for the joint or shared use of the railroad's right-of-way or the construction,
1.20 operation, or maintenance of rail track, facilities, or services for commuter rail purposes.

1.21 ~~Notwithstanding section 3.732, subdivision 1, clause (2), or section 466.01, subdivision 6,~~
1.22 ~~sections 466.04 and 466.06 govern the liability of the Class I railroad and its employees~~
1.23 ~~arising from the joint or shared use of the railroad right-of-way or the provision of~~
1.24 ~~commuter rail construction, operation, or maintenance services pursuant to the contract.~~

2.1 Notwithstanding any law to the contrary, a contract with the Class I railroad for any
2.2 commuter rail service, or joint or shared use of the railroad's right-of-way, may also
2.3 provide for the allocation of financial responsibility, indemnification, and the procurement
2.4 of insurance for the parties for all types of claims or damages, provided that the contract
2.5 may not cap allowable damages or grant immunity, in whole or in part, to the Class I
2.6 railroad for any action arising out of negligence or other tort claim against the railroad
2.7 or its subsidiaries. A contract entered into under this section does not affect rights of
2.8 employees under the Federal Employers Liability Act or the federal Railway Labor Act.

2.9 **EFFECTIVE DATE.** This section is effective retroactively from January 1, 2007.