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State of Minnesota  
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH  
SESSION

HOUSE FILE No. **3792**

March 4, 2008

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

March 13, 2008

By motion, recalled and re-referred to the Committee on Local Government and Metropolitan Affairs

March 19, 2008

Committee Recommendation and Adoption of Report:

To Pass as Amended and re-referred to the Committee on Finance

1.1 A bill for an act  
1.2 relating to commuter rail; clarifying the commissioner of transportation's  
1.3 authority; providing for the operation and maintenance of commuter rail lines  
1.4 located in whole or in part within the metropolitan area; amending Minnesota  
1.5 Statutes 2006, section 174.82; proposing coding for new law in Minnesota  
1.6 Statutes, chapter 473.

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

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

1.9 **174.82 COMMUTER RAIL; COMMISSIONER'S DUTIES; CONTRACTS;**  
1.10 **LIABILITIES, RIGHTS, AND FINANCIAL CONSIDERATIONS.**

1.11 (a) The planning, development, construction, operation, and maintenance of  
1.12 commuter rail track, facilities, and services are governmental functions, serve a public  
1.13 purpose, and are a matter of public necessity. The commissioner shall be responsible for  
1.14 all aspects of planning, developing, constructing, operating, and maintaining commuter  
1.15 rail, including system planning, advanced corridor planning, preliminary engineering, final  
1.16 design, construction, negotiating with railroads, and developing financial and operating  
1.17 plans. The commissioner may exercise the powers granted in this chapter, as necessary, to  
1.18 plan, design, acquire, construct, and equip commuter rail facilities. The commissioner  
1.19 may enter into a memorandum of understanding or agreement with a public or private  
1.20 entity, including a regional railroad authority, a joint powers board, and a railroad, to  
1.21 carry out these activities.

1.22 (b) The commissioner, ~~or a public entity contracting with the commissioner,~~ or the  
1.23 Metropolitan Council under section 473.4057, may contract with a railroad that is a Class  
1.24 I railroad under federal law for the joint or shared use of the railroad's right-of-way or the  
1.25 construction, operation, or maintenance of rail track, facilities, or services for commuter

2.1 rail purposes. Notwithstanding section 3.732, subdivision 1, clause (2), or section 466.01,  
2.2 subdivision 6, sections 466.04 and 466.06 govern the liability of the Class I railroad and  
2.3 its employees arising from the joint or shared use of the railroad right-of-way or the  
2.4 provision of commuter rail construction, operation, or maintenance services pursuant  
2.5 to the contract. Notwithstanding any law to the contrary, a contract with the Class I  
2.6 railroad for any commuter rail service, or joint or shared use of the railroad's right-of-way,  
2.7 may also provide for the allocation of financial responsibility, indemnification, and the  
2.8 procurement of insurance for the parties for all types of claims or damages. A contract  
2.9 entered into under this section does not affect rights of employees under the Federal  
2.10 Employers Liability Act or the federal Railway Labor Act.

2.11 **Sec. 2. [473.4057] COMMUTER RAIL OPERATION AND MAINTENANCE.**

2.12 **Subdivision 1. General.** Notwithstanding the provisions of sections 174.82 and  
2.13 174.90, the metropolitan council must operate and maintain commuter rail facilities and  
2.14 services in any corridor that is located in whole or in part in the metropolitan area. The  
2.15 council's operation and maintenance of the facilities and services must commence upon  
2.16 completion of the planning, development, and construction of the commuter rail facilities  
2.17 by the commissioner of transportation and the commencement of prerevenue service.

2.18 **Subd. 2. Commuter rail equipment, supplies, and materials.** The council  
2.19 is authorized to acquire equipment, supplies, and materials, including rolling stock,  
2.20 necessary for any commuter rail service that is subject to this section. This authority may  
2.21 be exercised either before or after the commencement of revenue service on a particular  
2.22 commuter rail line.

2.23 **Subd. 3. Commuter rail improvements.** After the commencement of revenue  
2.24 service in a particular commuter rail corridor, the council is responsible for planning,  
2.25 development, design, acquisition, construction, and equipping of any improvements to  
2.26 commuter rail facilities or service in that corridor.

2.27 **Subd. 4. Procurement for commuter rail; best value alternative.** (a)  
2.28 Notwithstanding the provisions of section 471.345, for purchases related to the council's  
2.29 maintenance and operation of commuter rail lines, the council may award a contract for  
2.30 the purchase of supplies, materials, equipment or the rental thereof, or the construction,  
2.31 alteration, improvement, repair, or maintenance of real or personal property to the vendor  
2.32 or contractor offering the best value under a request for proposals.

2.33 (b) For the purposes of this section, "best value" has the meaning given in section  
2.34 16C.02, subdivisions 4 and 4a. A best value determination must be based on the evaluation

3.1 criteria detailed in the solicitation document. If criteria other than price are used, the  
3.2 solicitation document must state the relative importance of price and other factors.

3.3 Subd. 5. **Transfer of property and use rights.** Prior to commencement of  
3.4 prerevenue service for a commuter rail line that is subject to this section, the commissioner  
3.5 of transportation must either:

3.6 (1) convey ownership; or

3.7 (2) provide a right of use through lease, license, assignment, right of access or  
3.8 other appropriate document;

3.9 to the council for all property rights, use rights, and facilities acquired or constructed by  
3.10 the state of Minnesota or the commissioner in developing the commuter rail line and  
3.11 needed by the council to operate and maintain the line and the commuter rail service.

3.12 Subd. 6. **Agreements with other parties.** The council may enter into memoranda  
3.13 of understanding, joint powers agreements, or other agreements with public or private  
3.14 entities including, without limitation, political subdivisions, regional railroad authorities,  
3.15 metropolitan planning organizations, joint powers boards, the commissioner of  
3.16 transportation, or railroads, to carry out its responsibilities under this section.

3.17 Subd. 7. **Expenditure of funds and exercise of powers.** In carrying out its  
3.18 responsibilities under this section and notwithstanding any other law to the contrary, the  
3.19 council may expend funds and exercise, both inside and outside the metropolitan area,  
3.20 those powers in this chapter that are necessary or convenient for those purposes. The  
3.21 jurisdiction of the metropolitan transit police under section 473.405 extends to offenses  
3.22 relating to the operation, property, facilities, equipment, employees, and passengers of any  
3.23 commuter rail facilities and services that are subject to this section.

3.24 Subd. 8. **Application of section 174.82.** The provisions of section 174.82,  
3.25 paragraph (b), apply to commuter rail facilities and services that are subject to this section.  
3.26 Without limitation as to its application, the provisions of section 174.82 apply when the  
3.27 council is carrying out its responsibilities for commuter rail under this section to the same  
3.28 extent as those provisions would apply if the council were carrying out its responsibilities  
3.29 under contract to the commissioner.

3.30 Subd. 9. **Rights of employees.** A contract entered into under subdivisions 1 to 9  
3.31 does not affect the rights of employees under the Federal Employers Liability Act or  
3.32 the Railway Labor Act.

3.33 **EFFECTIVE DATE.** This section is effective the day following final enactment  
3.34 and applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and  
3.35 Washington.