

This Document can be made available  
in alternative formats upon request

# HOUSE FILE NO. 3224

## *FIRST COMMITTEE ENGROSSMENT*

March 1, 2010

Authored by Beard

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

---

*Referred by Chair to Transportation Finance and Policy Division.*

March 25, 2010

*Returned to the Committee on Finance as Amended.*

1.1 A bill for an act  
1.2 relating to highways; amending design-build contracting provisions; modifying  
1.3 provisions relating to transportation projects; requiring report; amending  
1.4 Minnesota Statutes 2008, sections 161.3426, subdivision 3, by adding a  
1.5 subdivision; 174.02, by adding subdivisions.

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

1.7 Section 1. Minnesota Statutes 2008, section 161.3426, subdivision 3, is amended to  
1.8 read:

1.9 Subd. 3. **Stipulated fee.** The commissioner shall award a stipulated fee not less than  
1.10 two-tenths of one percent of the department's estimated cost of design and construction  
1.11 to each short-listed, responsible proposer who provides a responsive but unsuccessful  
1.12 proposal. When the RFP specifies a maximum price, the stipend must be awarded if the  
1.13 proposal is responsive in all other aspects but comes in above the maximum price. If  
1.14 the commissioner does not award a contract, all short-listed proposers must receive the  
1.15 stipulated fee. If the commissioner cancels the contract before reviewing the technical  
1.16 proposals, the commissioner shall award each design-builder on the short list a stipulated  
1.17 fee of not less than two-tenths of one percent of the commissioner's estimated cost of  
1.18 design and construction. The commissioner shall pay the stipulated fee to each proposer  
1.19 within 90 days after the award of the contract or the decision not to award a contract.  
1.20 In consideration for paying the stipulated fee, the commissioner may use any ideas or  
1.21 information contained in the proposals in connection with any contract awarded for the  
1.22 project or in connection with a subsequent procurement, without any obligation to pay  
1.23 any additional compensation to the unsuccessful proposers. Notwithstanding the other  
1.24 provisions of this subdivision, an unsuccessful short-list proposer may elect to waive the  
1.25 stipulated fee. If an unsuccessful short-list proposer elects to waive the stipulated fee, the

2.1 commissioner may not use ideas and information contained in that proposer's proposal.  
2.2 Upon the request of the commissioner, a proposer who waived a stipulated fee may  
2.3 withdraw the waiver, in which case the commissioner shall pay the stipulated fee to the  
2.4 proposer and thereafter may use ideas and information in the proposer's proposal.

2.5 Sec. 2. Minnesota Statutes 2008, section 161.3426, is amended by adding a subdivision  
2.6 to read:

2.7 Subd. 6. **Reissuance of bids.** If the commissioner rejects all bids or does not  
2.8 execute the contract, the commissioner may reissue the RFP and allow only short-listed  
2.9 teams to resubmit proposals. The commissioner shall then pay a reasonable stipulated  
2.10 fee to each short-listed, responsible proposer who provides a responsive but unsuccessful  
2.11 proposal in response to the reissued RFP. When the reissued RFP specifies a maximum  
2.12 price, the stipend must be awarded if the proposal is responsive in all other aspects but  
2.13 comes in above the maximum price.

2.14 Sec. 3. Minnesota Statutes 2008, section 174.02, is amended by adding a subdivision  
2.15 to read:

2.16 Subd. 8. **Alternative financing and investment in transportation projects.** (a)  
2.17 The commissioner may enter into agreements with governmental or nongovernmental  
2.18 entities, including private and nonprofit entities, to finance or invest in transportation  
2.19 projects, including repayment agreements subject to the availability of state money or  
2.20 other dedicated revenue or resources, with the approval of the commissioner of Minnesota  
2.21 Management and Budget.

2.22 (b) By August 1, 2011, and annually by August 1 thereafter, the commissioner shall  
2.23 submit to the chairs and ranking minority members of the house of representatives and  
2.24 senate committees having jurisdiction over transportation policy and finance, a listing of  
2.25 all agreements executed under this subdivision. The listing must identify each agreement,  
2.26 the contracting entities, contract amount, duration, and any repayment requirements. The  
2.27 listing may be submitted electronically, and is subject to section 3.195, subdivision 1.

2.28 Sec. 4. Minnesota Statutes 2008, section 174.02, is amended by adding a subdivision  
2.29 to read:

2.30 Subd. 9. **Federal financial program authority.** The commissioner may apply  
2.31 for and receive financial assistance under the Transportation Infrastructure Finance and  
2.32 Innovation Act of 1998 (TIFIA), United States Code, title 23, chapter 6, or through other  
2.33 federal transportation loan, grant, or credit assistance programs. The assistance may

- 3.1 include but is not limited to loans, loan guarantees, and lines of credit. The commissioner
- 3.2 may enter into agreements to repay the financial assistance subject to the availability of
- 3.3 state money or other dedicated revenue or resources, with the approval of Minnesota
- 3.4 Management and Budget.