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State of Minnesota
HOUSE OF REPRESENTATIVES

**EIGHTY-SIXTH
SESSION**

HOUSE FILE No. 898

February 16, 2009

Authored by Hornstein, Liebling, Brynaert, Hansen, Nelson and others
The bill was read for the first time and referred to the Committee on Environment Policy and Oversight

March 12, 2009

Committee Recommendation and Adoption of Report:
To Pass as Amended and re-referred to the Committee on State and Local Government Operations Reform, Technology and Elections

1.1 A bill for an act
1.2 relating to environment; adding greenhouse gas reduction goals and strategies
1.3 to various state and metropolitan programs and plans; establishing goals for per
1.4 capita reduction in vehicle miles traveled to reduce greenhouse gases; transferring
1.5 money; amending Minnesota Statutes 2008, sections 103B.3355; 116D.04, by
1.6 adding a subdivision; 123B.70, subdivision 1; 123B.71, subdivision 9; 473.121,
1.7 by adding a subdivision; 473.145; 473.146, by adding a subdivision; 473.25;
1.8 proposing coding for new law in Minnesota Statutes, chapters 116C; 174; 473.

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

1.10 Section 1. **LEGISLATIVE FINDINGS; IMPROVED LAND USE PLANNING TO**
1.11 **ACHIEVE MANDATED REDUCTIONS IN GREENHOUSE GAS EMISSIONS.**

1.12 The legislature finds that changes in development patterns are necessary for
1.13 Minnesota to achieve the greenhouse gas reduction goals provided in Minnesota Statutes,
1.14 section 216H.02, subdivision 1. The legislature further finds that improved land use
1.15 planning and development practices that target growth in ways that reduce the number
1.16 and length of vehicle trips are necessary to achieve the greenhouse gas reduction goals
1.17 provided in Minnesota Statutes, section 216H.02, subdivision 1.

1.18 Sec. 2. Minnesota Statutes 2008, section 103B.3355, is amended to read:

1.19 **103B.3355 WETLAND FUNCTIONS FOR DETERMINING PUBLIC**
1.20 **VALUES.**

1.21 (a) The public values of wetlands must be determined based upon the functions of
1.22 wetlands for:

1.23 (1) water quality, including filtering of pollutants to surface and groundwater,
1.24 utilization of nutrients that would otherwise pollute public waters, trapping of sediments,
1.25 shoreline protection, and utilization of the wetland as a recharge area for groundwater;

2.1 (2) floodwater and stormwater retention, including the potential for flooding in
2.2 the watershed, the value of property subject to flooding, and the reduction in potential
2.3 flooding by the wetland;

2.4 (3) public recreation and education, including hunting and fishing areas, wildlife
2.5 viewing areas, and nature areas;

2.6 (4) commercial uses, including wild rice and cranberry growing and harvesting
2.7 and aquaculture;

2.8 (5) fish, wildlife, native plant habitats;

2.9 (6) low-flow augmentation; ~~and~~

2.10 (7) carbon sequestration; and

2.11 ~~(7)~~ (8) other public uses.

2.12 (b) The Board of Water and Soil Resources, in consultation with the commissioners
2.13 of natural resources and agriculture and local government units, shall adopt rules
2.14 establishing:

2.15 (1) scientific methodologies for determining the functions of wetlands; and

2.16 (2) criteria for determining the resulting public values of wetlands.

2.17 (c) The methodologies and criteria established under this section or other
2.18 methodologies and criteria that include the functions in paragraph (a) and are approved
2.19 by the board, in consultation with the commissioners of natural resources and agriculture
2.20 and local government units, must be used to determine the functions and resulting public
2.21 values of wetlands in the state. The functions listed in paragraph (a) are not listed in
2.22 order of priority.

2.23 (d) Public value criteria established or approved by the board under this section do
2.24 not apply in areas subject to local comprehensive wetland protection and management
2.25 plans established under section 103G.2243.

2.26 (e) The Board of Water and Soil Resources, in consultation with the commissioners
2.27 of natural resources and agriculture and local government units, may identify regions of
2.28 the state where preservation, enhancement, restoration, and establishment of wetlands
2.29 would have high public value. The board, in consultation with the commissioners, may
2.30 identify high priority wetland regions using available information relating to the factors
2.31 listed in paragraph (a). The board shall notify local units of government with water
2.32 planning authority of these high priority regions.

2.33 **EFFECTIVE DATE.** This section is effective August 1, 2009, and applies to
2.34 rulemaking that begins after that date.

2.35 Sec. 3. **[116C.99] SENSIBLE COMMUNITIES GRANT PROGRAM.**

3.1 The Environmental Quality Board shall make grants to local units of government for
3.2 changes in municipal ordinances that will encourage development patterns that support
3.3 the following measurable goals:

3.4 (1) providing citizens with safe and convenient transportation alternatives, such as
3.5 transit, walking, and bicycling;

3.6 (2) increasing the quantity, quality, and accessibility of wildlands, wetlands, lakes,
3.7 rivers, and streams with the goal of preserving and protecting connected ecosystem
3.8 functions;

3.9 (3) increasing physical activity through community design changes that promote the
3.10 convenience and safety of walking and bicycling;

3.11 (4) maximizing the efficiency and cost-effectiveness of public investments by
3.12 prioritizing infrastructure maintenance and rehabilitation; and

3.13 (5) expanding lifecycle housing opportunities for all income levels, especially in
3.14 job-rich jurisdictions.

3.15 Sec. 4. Minnesota Statutes 2008, section 116D.04, is amended by adding a subdivision
3.16 to read:

3.17 Subd. 2c. **Greenhouse gases.** (a) This subdivision applies to transportation-related
3.18 development projects for which preparation of an environmental assessment worksheet
3.19 is mandatory.

3.20 (b) Environmental review documents prepared under this chapter or rules adopted
3.21 under this chapter for projects that meet the requirements of paragraph (a) must consider
3.22 greenhouse gas emissions.

3.23 (c) Nothing in this subdivision adds to, subtracts from, or modifies the obligation
3.24 of a responsible governmental unit under this chapter to conduct environmental review
3.25 because of the potential for significant environmental effects resulting from a project's
3.26 greenhouse gas emissions.

3.27 (d) By November 1, 2009, the board shall develop a guidance document to
3.28 implement this subdivision. In developing the guidance document, the board shall consider
3.29 the Pollution Control Agency's general guidance for carbon footprint development in
3.30 environmental review and, to the extent possible, shall rely on existing protocols for
3.31 inventorying and analyzing greenhouse gas emissions, such as the Climate Registry. The
3.32 guidance document must include examples of alternatives and mitigation measures for
3.33 different types of projects.

3.34 (e) By November 1, 2009, the board shall provide an amended environmental
3.35 assessment worksheet form consistent with this subdivision to be used where applicable.

4.1 The amended form must include analysis of project energy use, in order to characterize
4.2 and measure direct and indirect greenhouse gas emissions, and vehicle-related greenhouse
4.3 emissions.

4.4 (f) By January 15, 2010, the board shall submit to the chairs of the senate and
4.5 house committees with jurisdiction over environment policy a report containing specific
4.6 recommendations for the most effective way to include analysis of greenhouse gas
4.7 emissions, mitigations, and alternatives in all projects that undergo environmental review.

4.8 (g) For the purposes of this subdivision:

4.9 (1) "greenhouse gas emissions" means emissions of carbon dioxide, methane, nitrous
4.10 oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride from anthropogenic
4.11 sources that result from a project; and

4.12 (2) "transportation-related development projects" means highways; industrial,
4.13 commercial, and institutional facilities; airport projects; solid waste facilities; mixed
4.14 residential and industrial-commercial projects; residential developments; wastewater
4.15 systems; sport or entertainment facilities; land use conversion, including golf courses; and
4.16 recreational trails.

4.17 Sec. 5. Minnesota Statutes 2008, section 123B.70, subdivision 1, is amended to read:

4.18 Subdivision 1. **Commissioner approval.** In determining whether to give a school
4.19 facility a positive, negative, or unfavorable review and comment, the commissioner must
4.20 evaluate the proposals for facilities using the information provided under section 123B.71,
4.21 subdivision 9. The commissioner may evaluate the proposals using the most recent "Guide
4.22 for Planning School Construction in Minnesota" prepared by the Department of Education,
4.23 but must not issue a negative or unfavorable review and comment under this section for
4.24 a school facility based on the acreage of the proposed school site. The commissioner's
4.25 evaluation of whether to replace a facility must not be based upon renovation costs
4.26 approaching 60 percent of the replacement costs. If a school is proposed for a new site,
4.27 the commissioner must examine the energy costs associated with that facility, including
4.28 the change in pupil transportation costs and the costs of establishing new infrastructure,
4.29 such as roads, sidewalks, and utility lines.

4.30 **EFFECTIVE DATE.** This section is effective for review and comments issued
4.31 after July 1, 2009.

4.32 Sec. 6. Minnesota Statutes 2008, section 123B.71, subdivision 9, is amended to read:

5.1 Subd. 9. **Information required.** A school board proposing to construct a facility
5.2 described in subdivision 8 shall submit to the commissioner a proposal containing
5.3 information including at least the following:

5.4 (1) the geographic area and population to be served, preschool through grade 12
5.5 student enrollments for the past five years, and student enrollment projections for the
5.6 next five years;

5.7 (2) a list of existing facilities by year constructed, their uses, and an assessment of
5.8 the extent to which alternate facilities are available within the school district boundaries
5.9 and in adjacent school districts;

5.10 (3) a list of the specific deficiencies of the facility that demonstrate the need for a
5.11 new or renovated facility to be provided, and a list of the specific benefits that the new
5.12 or renovated facility will provide to the students, teachers, and community users served
5.13 by the facility;

5.14 (4) the relationship of the project to any priorities established by the school district,
5.15 educational cooperatives that provide support services, or other public bodies in the
5.16 service area;

5.17 (5) a description of the pedestrian, bicycle, and transit connections between the
5.18 school and nearby residential areas that make it easier for children, teachers, and parents
5.19 to get to the school by walking, bicycling, and taking transit;

5.20 ~~(5)~~ (6) a specification of how the project will increase community use of the facility
5.21 maximizes the opportunity for cooperative use of existing park, recreation, and other
5.22 public facilities and whether and how the project will increase collaboration with other
5.23 governmental or nonprofit entities;

5.24 ~~(6)~~ (7) a description of the project, including the specification of site and outdoor
5.25 space acreage and square footage allocations for classrooms, laboratories, and support
5.26 spaces; estimated expenditures for the major portions of the project; and the dates the
5.27 project will begin and be completed;

5.28 ~~(7)~~ (8) a specification of the source of financing the project; the scheduled date
5.29 for a bond issue or school board action; a schedule of payments, including debt service
5.30 equalization aid; and the effect of a bond issue on local property taxes by the property
5.31 class and valuation;

5.32 ~~(8)~~ (9) an analysis of how the proposed new or remodeled facility will affect school
5.33 district operational or administrative staffing costs, and how the district's operating budget
5.34 will cover any increased operational or administrative staffing costs;

6.1 ~~(9)~~ (10) a description of the consultation with local or state ~~road and~~ transportation
6.2 officials on multimodal school site access and safety issues, and the ways that the project
6.3 will address those issues;

6.4 ~~(10)~~ (11) a description of how indoor air quality issues have been considered and a
6.5 certification that the architects and engineers designing the facility will have professional
6.6 liability insurance;

6.7 ~~(11)~~ (12) as required under section 123B.72, for buildings coming into service
6.8 after July 1, 2002, a certification that the plans and designs for the extensively renovated
6.9 or new facility's heating, ventilation, and air conditioning systems will meet or exceed
6.10 code standards; will provide for the monitoring of outdoor airflow and total airflow of
6.11 ventilation systems; and will provide an indoor air quality filtration system that meets
6.12 ASHRAE standard 52.1;

6.13 ~~(12)~~ (13) a specification of any desegregation requirements that cannot be met
6.14 by any other reasonable means;

6.15 ~~(13)~~ (14) a specification, ~~if applicable,~~ of how the facility will utilize environmentally
6.16 sustainable school facility design concepts; and

6.17 ~~(14)~~ (15) a description of how the architects and engineers have considered
6.18 the American National Standards Institute Acoustical Performance Criteria, Design
6.19 Requirements and Guidelines for Schools of the maximum background noise level and
6.20 reverberation times.

6.21 Sec. 7. **[174.015] REDUCING VEHICLE MILES TRAVELED.**

6.22 Subdivision 1. **Definition.** "Vehicle miles traveled" means nonfreight motor vehicle
6.23 miles traveled per person per calendar year.

6.24 Subd. 2. **Reduction goal.** To help achieve an overall reduction in greenhouse gas
6.25 emissions in Minnesota, the commissioner of transportation shall implement, and facilitate
6.26 the implementation by other public and private entities of, policies that have the goal
6.27 of achieving by 2025 at least a 15 percent reduction from 2005 levels of vehicle miles
6.28 traveled. The implemented policies shall not mandate that individuals reduce their vehicle
6.29 miles traveled.

6.30 Sec. 8. Minnesota Statutes 2008, section 473.121, is amended by adding a subdivision
6.31 to read:

6.32 Subd. 37. **Vehicle miles traveled.** "Vehicle miles traveled" has the meaning given
6.33 in section 174.015.

7.1 Sec. 9. Minnesota Statutes 2008, section 473.145, is amended to read:

7.2 **473.145 DEVELOPMENT GUIDE.**

7.3 The Metropolitan Council shall prepare and adopt, after appropriate study and
7.4 such public hearings as may be necessary, a comprehensive development guide for the
7.5 metropolitan area. It shall consist of a compilation of policy statements, goals, standards,
7.6 programs, and maps prescribing guides for the orderly and economical development,
7.7 public and private, of the metropolitan area. The comprehensive development guide shall
7.8 recognize and encompass physical, social, or economic needs of the metropolitan area
7.9 and those future developments which will have an impact on the entire area including but
7.10 not limited to such matters as land use, parks and open space land needs, greenhouse gas
7.11 reduction, the necessity for and location of airports, highways, transit facilities, public
7.12 hospitals, libraries, schools, and other public buildings.

7.13 Sec. 10. Minnesota Statutes 2008, section 473.146, is amended by adding a subdivision
7.14 to read:

7.15 Subd. 5. **Vehicle miles traveled reduction.** (a) By July 1, 2010, the council must
7.16 adopt a policy statement supporting reducing vehicle miles traveled. The policy statement
7.17 must set a goal of reducing regional vehicle miles traveled by at least 17 percent from
7.18 2005 levels by 2025. The policy statement must identify broad strategies relating to
7.19 transportation and land use by which the goal may be accomplished and an estimate of the
7.20 1990 vehicle miles traveled and 2005 vehicle miles traveled for all local governments in
7.21 the metropolitan area. The council shall consider the policy analysis and recommendations
7.22 in the Minnesota Climate Change Advisory Group's Report to the Minnesota Legislature,
7.23 dated April 2008, and consult with the University of Minnesota Institute for the
7.24 Environment and the University of Minnesota Center for Transportation Studies.

7.25 (b) By July 1, 2012, the council must revise the metropolitan development guide and
7.26 system plans to be consistent with the policy statement under paragraph (a) and to meet
7.27 the goal for reducing vehicle miles traveled in the region.

7.28 Sec. 11. Minnesota Statutes 2008, section 473.25, is amended to read:

7.29 **473.25 LIVABLE COMMUNITIES CRITERIA AND GUIDELINES.**

7.30 (a) The council shall establish criteria for uses of the fund provided in section
7.31 473.251 that are consistent with and promote the purposes of this article and the policies of
7.32 the Metropolitan Development Guide adopted by the council including, but not limited to:

7.33 (1) helping to change long-term market incentives that adversely impact creation
7.34 and preservation of living-wage jobs in the fully developed area;

8.1 (2) creating incentives for developing communities to include a full range of housing
 8.2 opportunities;

8.3 (3) creating incentives to preserve and rehabilitate affordable housing in the fully
 8.4 developed area; and

8.5 (4) creating incentives for all communities to implement compact and efficient
 8.6 development.

8.7 (b) The council shall establish guidelines for the livable community demonstration
 8.8 account for projects that the council would consider funding with either grants or loans.
 8.9 The guidelines must provide that the projects will:

8.10 (1) interrelate development or redevelopment and transit;

8.11 (2) interrelate affordable housing and employment growth areas;

8.12 (3) intensify land use that leads to more compact development or redevelopment;

8.13 (4) involve development or redevelopment that mixes incomes of residents in
 8.14 housing, including introducing or reintroducing higher value housing in lower income
 8.15 areas to achieve a mix of housing opportunities; ~~or~~

8.16 (5) encourage public infrastructure investments which connect urban neighborhoods
 8.17 and suburban communities, attract private sector redevelopment investment in commercial
 8.18 and residential properties adjacent to the public improvement, and provide project area
 8.19 residents with expanded opportunities for private sector employment; or

8.20 (6) reduce greenhouse gas emissions through a reduction in vehicle miles traveled.

8.21 (c) The council shall establish guidelines governing who may apply for a grant or
 8.22 loan from the fund, providing priority for proposals using innovative partnerships between
 8.23 government, private for-profit, and nonprofit sectors.

8.24 (d) The council shall prepare an annual plan for distribution of the fund based on the
 8.25 criteria for project and applicant selection.

8.26 (e) The council shall prepare and submit to the legislature, as provided in section
 8.27 3.195, an annual report on the metropolitan livable communities fund. The report must
 8.28 include information on the amount of money in the fund, the amount distributed, to whom
 8.29 the funds were distributed and for what purposes, and an evaluation of the effectiveness of
 8.30 the projects funded in meeting the policies and goals of the council. The report may make
 8.31 recommendations to the legislature on changes to Laws 1995, chapter 255.

8.32 Sec. 12. **[473.8585] VEHICLE MILES TRAVELED REDUCTION; LOCAL**
 8.33 **COMPREHENSIVE PLAN AMENDMENTS.**

8.34 **Subdivision 1. Establish local baseline vehicle miles traveled. By July 2011, each**
 8.35 **local governmental unit exercising land control must establish the vehicle miles traveled**

9.1 in its jurisdiction under its existing comprehensive plan using the model developed by the
9.2 University of Minnesota under section 13, subdivision 1. The governmental unit must
9.3 also identify strategies that will allow it to accomplish the goal set forth in the policy
9.4 statement adopted by the council under section 473.146, subdivision 5, and report the
9.5 results of its work to the council. Within the existing parameters of the metropolitan
9.6 livable communities fund, expenses related to this subdivision are an allowable use.

9.7 Subd. 2. **Revision of local comprehensive plans.** By July 2012, the council must
9.8 revise its metropolitan development guide and metropolitan system plans as needed to meet
9.9 the goal set forth in the policy statement adopted by the council under section 473.146,
9.10 subdivision 5, and issue metropolitan system statements to each local governmental unit
9.11 that must prepare and submit local comprehensive plans to the council. By July 2013,
9.12 each local governmental unit must revise its comprehensive plans as needed to accomplish
9.13 the vehicle miles traveled reduction goal and make its local comprehensive plan consistent
9.14 with the metropolitan development guide and metropolitan system plans. The revised local
9.15 comprehensive plan must demonstrate that the land uses and development contemplated
9.16 in the plan and the official controls, fiscal devices, and other specific actions identified to
9.17 implement the plan will accomplish the vehicle miles traveled reduction goal.

9.18 Subd. 3. **Council review; local plan adoption.** Each local governmental unit
9.19 must submit its revisions to the council. The council must review the revisions for
9.20 consistency with the policy statement and conformity with the metropolitan systems plans.
9.21 The council may require a local governmental unit to modify its revision if the council
9.22 concludes that the revision does not accomplish the goal set out in the policy statement or
9.23 is more likely than not to have a substantial impact on or contain a substantial departure
9.24 from the metropolitan system plans. The local governmental unit must adopt its revised
9.25 plan, after council review and modification, if necessary.

9.26 Subd. 4. **Continuing obligation.** After July 2013, each local comprehensive plan
9.27 and plan amendment must demonstrate that the land uses and development contemplated
9.28 in the plan and the official controls, fiscal devices, and other specific actions identified to
9.29 implement it, will accomplish the vehicle miles traveled reduction goal.

9.30 **Sec. 13. TRANSFER OF MONEY.**

9.31 Subdivision 1. **University of Minnesota Center for Transportation Studies.** The
9.32 Metropolitan Council must transfer \$500,000 from the metropolitan livable communities
9.33 fund to the Board of Regents of the University of Minnesota for the Center for
9.34 Transportation Studies to develop by July 1, 2010, resources for use by local governments
9.35 and the Metropolitan Council to identify land-use and transportation planning strategies

10.1 and processes to support the policies identified under Minnesota Statutes, section 473.146,
10.2 subdivision 5. The resources should assist local communities and the Metropolitan
10.3 Council as they implement the policies under Minnesota Statutes, section 473.8585, and
10.4 under Minnesota Statutes, section 473.146, subdivision 5. The resources should take into
10.5 account recent transportation trends and be tailored to the specific trends within the Twin
10.6 Cities. The Center for Transportation Studies should identify and use existing information
10.7 and models to the extent they are useful and accurate. The Center for Transportation
10.8 Studies is encouraged to collaborate with the Metropolitan Council and local units of
10.9 government willing and interested in voluntary involvement with development and
10.10 refinement of the resources.

10.11 **Subd. 2. University of Minnesota Center for Transportation Studies.** By July
10.12 1, 2010, the Metropolitan Council must transfer \$250,000 from the metropolitan livable
10.13 communities fund to the Board of Regents of the University of Minnesota for the Center
10.14 for Transportation Studies to offer a series of voluntary training sessions and outreach
10.15 activities for staff from local governments in the Twin Cities and from the Metropolitan
10.16 Council who are interested in using the resources identified in subdivision 1 to help
10.17 implement the policies under Minnesota Statutes, section 473.8585, subdivision 1, and
10.18 under Minnesota Statutes, section 473.146, subdivision 5. The Center for Transportation
10.19 Studies should also maintain a Web site that provides information related to using the
10.20 resources identified in subdivision 1.

10.21 **Subd. 3. University of Minnesota Center for Transportation Studies.** By July
10.22 1, 2012, the Metropolitan Council must transfer \$500,000 from the metropolitan livable
10.23 communities fund to the Board of Regents of the University of Minnesota for the Center
10.24 for Transportation Studies to offer voluntary technical assistance to local government staff
10.25 who are interested in using the resources identified in subdivision 1 to help implement the
10.26 policies under Minnesota Statutes, section 473.8585, subdivision 2, including assistance
10.27 to communities on their comprehensive plan. The Center for Transportation Studies is
10.28 encouraged to evaluate and enhance the resources identified in subdivision 1 based on input
10.29 from the Metropolitan Council and local government staff that are using the resources.

10.30 **Subd. 4. Commissioner of administration.** The Metropolitan Council must
10.31 transfer \$..... from the metropolitan livable communities fund to the commissioner of
10.32 administration to fund a competitive grant program under Minnesota Statutes, section
10.33 116C.99.