

**SENATE
STATE OF MINNESOTA
NINETY-FIRST SESSION**

S.F. No. 4608

(SENATE AUTHORS: DZIEDZIC and Champion)

DATE
05/13/2020

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OFFICIAL STATUS
Introduction and first reading
Referred to State Government Finance and Policy and Elections

1.1 A bill for an act
1.2 relating to state government; requiring financial assurance for damage to state
1.3 property for certain construction projects; establishing a strict liability standard
1.4 for damage to state property; amending Minnesota Statutes 2018, section 16B.26,
1.5 subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 16B.

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

1.7 Section 1. **[16B.255] CONSTRUCTION NEAR STATE HISTORIC PROPERTY.**

1.8 Subdivision 1. **Definition.** "Construction project" as used in this section means a private
1.9 construction project adjacent to, under, or over state historic property that does not involve
1.10 improvement to the state property and that could affect the structural integrity of the state
1.11 historic property, as determined by the commissioner of administration, in consultation with
1.12 the commissioner of an agency having jurisdiction over the state historic property.

1.13 Subd. 2. **Financial assurance.** Before issuing a permit or an easement for a construction
1.14 project, an agency must require that an applicant provide documentation of financial
1.15 assurance in an amount adequate to pay restoration costs for the state historic property if it
1.16 is damaged as a result of the construction project. The financial assurance may be a trust
1.17 fund, letter of credit, escrow account, surety bond, or other financial assurance payable to
1.18 the commissioner of administration for restoration of the state historic property if the
1.19 permittee cannot or will not restore the state historic property. The financial assurance must
1.20 be approved by the commissioner of management and budget before the agency issues the
1.21 permit.

1.22 Subd. 3. **Strict liability.** A primary contractor for a construction project is strictly liable
1.23 for damage to state property resulting from the construction project.

2.1 Sec. 2. Minnesota Statutes 2018, section 16B.26, subdivision 1, is amended to read:

2.2 Subdivision 1. **Easements.** (a) **Authority.** Except where the authority conferred by this
2.3 section has been imposed on some other state or county office, and subject to section
2.4 16B.255, the commissioner may grant an easement or permit over, under, or across any
2.5 land owned by the state for public purposes, including but not limited to, access, road, street,
2.6 mass transit, telecommunication, flood protection, or utility purposes. This authority does
2.7 not apply to land under the jurisdiction of the commissioner of natural resources or land
2.8 obtained for trunk highway purposes.

2.9 (b) **Notice of revocation.** An easement or permit is revocable by written notice given
2.10 by the commissioner if at any time its continuance will conflict with a public use of the land
2.11 over, under, or upon which it is granted, or for any other reason. The notice must be in
2.12 writing and is effective 90 days after the notice is sent by certified mail to the last known
2.13 address of the record holder of the easement. If the address of the holder of the easement
2.14 or permit is not known, it expires 90 days after the notice is recorded in the office of the
2.15 county recorder of the county in which the land is located. Upon revocation of an easement,
2.16 the commissioner may allow a reasonable time for the easement holder to vacate the premises
2.17 affected. Notwithstanding the foregoing, the commissioner may grant to a state agency or
2.18 political subdivision a permanent easement for the construction, operation, and maintenance
2.19 of publicly owned infrastructure as described in paragraph (a), to have and to hold for as
2.20 long as the easement area is used in accordance with the terms and conditions of the
2.21 easement. If a permanent easement ceases to be used for the purposes stated in the easement
2.22 or in accordance with its terms and conditions, the easement may be revoked by a written
2.23 notice given by the commissioner in accordance with this paragraph.

2.24 (c) **Easement runs with land.** State land subject to an easement or permit granted by
2.25 the commissioner remains subject to sale or lease, and the sale or lease does not revoke the
2.26 permit or easement granted.

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