

## CHAPTER 174

## DEPARTMENT OF TRANSPORTATION

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**174.01 CREATION; POLICY.**

Subdivision 1. **Department created.** In order to provide a balanced transportation system, including aeronautics, highways, motor carriers, ports, public transit, railroads and pipelines, a department of transportation is created. The department is the principal agency of the state for development, implementation, administration, consolidation, and coordination of state transportation policies, plans and programs.

Subd. 2. **Transportation goals.** The goals of the state transportation system are as follows:

- (1) to provide safe transportation for users throughout the state;
- (2) to provide multimodal and intermodal transportation that enhances mobility and economic development and provides access to all persons and businesses in Minnesota while ensuring that there is no undue burden placed on any community;
- (3) to provide a reasonable travel time for commuters;
- (4) to provide for the economical, efficient, and safe movement of goods to and from markets by rail, highway, and waterway;
- (5) to encourage tourism by providing appropriate transportation to Minnesota facilities designed to attract tourists;
- (6) to provide transit services throughout the state to meet the needs of transit users;
- (7) to promote productivity through system management and the utilization of technological advancements;
- (8) to maximize the benefits received for each state transportation investment;
- (9) to provide funding for transportation that, at a minimum, preserves the transportation infrastructure;
- (10) to ensure that the planning and implementation of all modes of transportation are consistent with the environmental and energy goals of the state;
- (11) to increase high occupancy vehicle use;
- (12) to provide an air transportation system sufficient to encourage economic growth and allow all regions of the state the ability to participate in the global economy;

(13) to increase transit use in the urban areas by giving highest priority to the transportation modes with the greatest people moving capacity; and

(14) to promote and increase bicycling as an energy-efficient, nonpolluting, and healthful transportation alternative.

*History: 1976 c 166 s 1; 1991 c 298 art 1 s 1*

#### **174.02 COMMISSIONER'S POWERS AND DUTIES.**

**Subdivision 1. Appointment.** The department shall be supervised and controlled by the commissioner of transportation, who shall be appointed by the governor and serve under the provisions of section 15.06.

**Subd. 2. Unclassified positions.** The commissioner may establish four positions in the unclassified service at the deputy and assistant commissioner, assistant to commissioner or personal secretary levels. No more than two of these positions shall be at the deputy commissioner level.

**Subd. 3. Departmental organization.** The commissioner shall organize the department in a manner recognizing the administrative and staffing needs of all modes of transportation within the commissioner's jurisdiction, and shall employ personnel as the commissioner deems necessary to discharge the functions of the department. The commissioner shall adopt an affirmative action plan for the department in order to insure that department hiring encourages the selection of members of groups of persons who because of unfair or unlawful discriminatory practices have in the past been denied equal employment opportunity. This plan need not be promulgated as a rule, but it shall be approved by the commissioner of employee relations. The plan shall provide that the affected groups of persons shall constitute at least the same proportional number of employees in the department as they constitute in the total employment in state government; provided that this limitation shall expire in respect to an affected group when the commissioner of employee relations certifies that members of that affected group are employed in the department in the same proportion as they constitute in the total employment in state government.

**Subd. 4. Appearances on public transportation matters.** The commissioner may appear as a party on behalf of the public in any proceeding or matter before the interstate commerce commission, the civil aeronautics board or any other agency or instrumentality of government which regulates public services or rates relating to transportation or other matters related to the powers and responsibilities of the commissioner as prescribed by law. The commissioner shall appear as a party on behalf of the public in proceedings before the transportation regulation board as provided by law on matters which directly relate to the powers and duties of the commissioner or which substantially affect the statewide transportation plan. On all other transportation matters the commissioner may appear before the transportation regulation board.

**Subd. 5. Cooperation.** To facilitate the development of a unified and coordinated intrastate and interstate transportation system:

(a) The commissioner shall maintain close liaison, coordination and cooperation with the private sectors of transportation, the upper great lakes seaway development commission corporation, and any multistate organization involved in transportation issues affecting the state;

(b) The commissioner shall participate in the planning, regulation and development of the port authorities of the state; and

(c) The commissioner or the commissioner's designee shall be a nonvoting, ex officio member of the metropolitan airports commission, as organized and established under sections 473.601 to 473.679.

**Subd. 6. Agreements, receipts, appropriation.** To facilitate the implementation of intergovernmental efficiencies, effectiveness, and cooperation, and to promote and encourage economic and technological development in transportation matters within and between governmental and nongovernmental entities:

(a) The commissioner may enter into agreements with other governmental or non-

governmental entities for research and experimentation; for sharing facilities, equipment, staff, data, or other means of providing transportation-related services; or for other cooperative programs that promote efficiencies in providing governmental services or that further development of innovation in transportation for the benefit of the citizens of Minnesota.

(b) In addition to funds otherwise appropriated by the legislature, the commissioner may accept and spend funds received under any agreement authorized in paragraph (a) for the purposes set forth in that paragraph, subject to a report of receipts to the commissioner of finance at the end of each fiscal year and, if receipts from the agreements exceed \$100,000 in a fiscal year, the commissioner shall also notify the governor and the committee on finance of the senate and the committee on ways and means of the house of representatives.

(c) Funds received under this subdivision must be deposited in the special revenue fund and are appropriated to the commissioner for the purposes set forth in this subdivision.

**History:** 1976 c 166 s 2; 1977 c 305 s 23; 1980 c 534 s 13; 1980 c 617 s 47; 1986 c 444; 1993 c 266 s 28

#### 174.025 PROHIBITION ON ESTABLISHING NEW DIVISIONS.

Notwithstanding any other law to the contrary, the commissioner of transportation shall not establish any new divisions in the department of transportation, other than consolidations of existing divisions.

**History:** 1982 c 617 s 26

#### 174.03 DUTIES OF COMMISSIONER.

**Subdivision 1. Statewide transportation plan; priorities; schedule of expenditures.** In order to best meet the present and future transportation needs of the public, to insure a strong state economy, to make most efficient use of public and private funds, and to promote the more efficient use of energy and other resources for transportation purposes, the commissioner shall:

(a) Three months after notification that the department is ready to commence operations and prior to the drafting of the statewide transportation plan the commissioner shall hold public hearings as may be appropriate solely for the purpose of receiving suggestions for future transportation alternatives and priorities for the state. The metropolitan council, regional development commissions and port authorities shall appear at the hearings and submit information concerning transportation related planning undertaken and accomplished by these agencies. Other political subdivisions may appear and submit such information at the hearings. These hearings shall be completed no later than six months from the date of the commissioner's notification;

(b) Develop, adopt, revise and monitor a statewide transportation plan, taking into account the suggestions and information submitted at the public hearings held pursuant to clause (a). The plan shall incorporate all modes of transportation and provide for the interconnection and coordination of different modes of transportation. The commissioner shall evaluate alternative transportation programs and facilities proposed for inclusion in the plan in terms of economic costs and benefits, safety aspects, impact on present and planned land uses, environmental effects, energy efficiency, national transportation policies and priorities and availability of federal and other financial assistance;

(c) Based upon the statewide transportation plan, develop statewide transportation priorities and schedule authorized public capital improvements and other authorized public transportation expenditures pursuant to the priorities;

(d) Complete the plan and priorities required by this subdivision no later than July 1, 1978. Upon completion of the plan and priorities, the commissioner shall prepare and periodically revise, as necessary, the schedule of authorized public transportation expenditures. The plan, priorities and schedule are exempt from the provisions of the administrative procedure act.

**Subd. 1a. Revision of state transportation plan.** The commissioner shall revise the state transportation plan by January 1, 1996, and by January 1 of each odd-numbered year thereafter. Before final adoption of a revised plan, the commissioner shall hold a hearing to receive public comment on the plan. The revised state transportation plan must:

- (1) incorporate the goals of the state transportation system in section 174.01; and
- (2) establish objectives, policies, and strategies for achieving those goals.

**Subd. 2. Implementation of plan.** After the adoption and each revision of the statewide transportation plan, the commissioner and the transportation regulation board shall take no action inconsistent with the revised plan.

**Subd. 3. Relationship with national and local plans.** The statewide plan shall recognize established national transportation policies. The plan shall include matters of local or regional concern if this inclusion is needed to insure a comprehensive, statewide perspective on transportation policies and priorities. The commissioner shall recognize and attempt to accommodate the local or regional transportation plans. However, the statewide plan shall supersede a local or regional plan to the extent inconsistent on a matter which the commissioner demonstrates is of statewide concern. A political subdivision may challenge the commissioner's determination that a portion of a local or regional plan is superseded by the statewide plan. The subdivision shall institute the challenge by filing a petition with the commissioner within 30 days after being notified by the commissioner that the local or regional plan is superseded. The challenge shall be resolved by the commissioner as a contested case pursuant to chapter 14.

**Subd. 4. Other duties.** The commissioner shall:

- (a) Construct and maintain transportation facilities as authorized by law;
- (b) Cooperate with, and may provide technical and financial assistance to, the metropolitan council and regional development commissions in the regional transportation planning process, in accordance with mutually acceptable terms and conditions;
- (c) Cooperate with and may provide planning and technical assistance upon the request of any political subdivision or other governmental agency in accordance with mutually accepted terms and conditions, except as otherwise restricted by law; and
- (d) Develop, revise and monitor a statewide rail transportation plan as part of the statewide transportation planning process, including a study and evaluation of alternative methods for insuring adequate and economical transportation of agricultural commodities, supplies and other goods to and from rural areas of the state. The plan shall include an analysis of rail lines in the state for the purpose of determining: (1) eligibility of rail lines for assistance under federal and state rail assistance programs; (2) eligibility of rail lines for inclusion in the state rail bank; and (3) the actions required by the state to insure the continuation of rail service that meets essential state needs and objectives.

**Subd. 5. Regional transportation planning.** The metropolitan council, pursuant to section 473.146, and the regional development commissions shall develop regional long-range transportation policy plans in cooperation with the commissioner and local units of government. Upon promulgation of the statewide transportation plan, and periodically as necessary thereafter, each regional policy plan shall be reviewed and amended, if necessary, by the appropriate regional agency to insure that the regional policy plan is not in conflict with the statewide transportation plan.

**Subd. 5a.** [Repealed, 1984 c 654 art 3 s 153]

**Subd. 6. Social, economic and environmental effects.** The commissioner shall consider the social, economic and environmental effects resulting from existing and proposed transportation facilities and shall make continuing efforts to mitigate any adverse effects. The commissioner shall utilize a systematic, interdisciplinary approach which shall insure the integrated use of the natural, social and physical sciences and the environmental design arts in plans and decisions which may affect the environment.

**Subd. 7. Energy conservation.** The commissioner, in cooperation with the commissioner of public service, shall evaluate all modes of transportation in terms of their levels of energy consumption. The commissioner of public service shall provide the com-

missioner with projections of the future availability of energy resources for transportation. The commissioner shall use the results of this evaluation and the projections to evaluate alternative programs and facilities to be included in the statewide plan and to otherwise promote the more efficient use of energy resources for transportation purposes.

**Subd. 8. Salaries and expenses.** Salaries and expenses of the department relating to highway purposes shall be paid from moneys available in the trunk highway fund. The funds provided in sections 360.011 to 360.076 and 360.301 to 360.91 shall be expended by the commissioner of transportation in accordance with the purposes prescribed by those sections. Funds appropriated pursuant to the authority conferred by any constitutional article shall be expended in conformity with the purposes and uses authorized thereby.

**History:** 1976 c 166 s 3; Ex1979 c 1 s 16; 1980 c 534 s 14; 1980 c 558 s 1; 1980 c 614 s 96; 1981 c 356 s 180; 1982 c 424 s 130; 1982 c 617 s 17,18; 1983 c 289 s 115 subd 1; 1987 c 186 s 15; 1987 c 312 art 1 s 10 subd 2; 1991 c 298 art 1 s 2,3; 1994 c 635 art 2 s 6

### 174.031 JURISDICTION STUDIES AND PLAN.

**Subdivision 1. Studies directed.** The commissioner of transportation shall establish and direct a series of highway jurisdiction studies at the regional and multicounty level. The studies must be so designed and conducted as to constitute a comprehensive review in each development region, as designated under section 462.385, of the existing ownership of all roads and proposed changes in jurisdiction of those roads.

**Subd. 2.** [Repealed, 1989 c 155 s 5; 1989 c 343 s 7]

**Subd. 3. Studies commissioned.** (a) On and after August 1, 1985, the commissioner shall enter into agreements with regional development commissions by which the commissions will conduct studies of highway jurisdiction in each region. The studies must include:

- (1) the jurisdiction of each road in the region;
- (2) criteria for changes in jurisdiction, based on the commissioner's guidelines;
- (3) jurisdictional changes actually made since January 1, 1985;
- (4) recommended changes in jurisdiction based on the criteria;
- (5) changes in financial obligations resulting from the recommended jurisdictional change, based on the commissioner's guidelines;
- (6) estimated effects of the recommended jurisdictional changes on highway staffing needs of each level of government in the region; and
- (7) estimated effects of the recommended jurisdictional changes on law enforcement on the affected roads.

(b) In development regions where no regional development commission is functioning, or where a regional development commission declines to enter into an agreement to perform a jurisdiction study, the jurisdiction study must be organized by a district office of the department of transportation as designated by the commissioner. A district office so designated must act through the counties in the development region and through other public agencies the commissioner directs. For purposes of this section the metropolitan council is a regional development commission.

(c) The agreements must provide that each entity undertaking a study under this subdivision must produce and present to the commissioner, not later than July 31, 1987, a jurisdiction proposal for the region. Each jurisdiction proposal must identify each instance where a proposed jurisdictional change is based on a factor that deviates from the commissioner's guidelines and explain the reasons for each deviation.

(d) The commissioner shall pay not more than two-thirds of the cost of each study.

**Subd. 4. State jurisdiction plan.** (a) Using the jurisdiction proposals presented under subdivision 3, the commissioner shall present, not later than March 1, 1988, to the legislature a statewide highway jurisdiction plan. The plan must include:

(1) a compilation of all highway jurisdictional changes actually made at all levels of government since January 1, 1985;

(2) all future jurisdictional changes recommended in the jurisdiction proposals and approved by the commissioner;

(3) recommendations for changes in the statutory trunk highway system needed to implement the recommended jurisdictional changes;

(4) a recommendation as to the feasibility or desirability of establishing a state jurisdictional transfer fund, including if this fund is recommended, recommendations on control over the fund, on amount of money made available to the fund, on highway costs to be included in transfer payments made from the fund, and on sources of revenue for the fund; and

(5) other statutory changes made necessary by the recommended jurisdictional changes.

The commissioner may recommend, as an alternative to the fund in clause (4), changes in the constitutional distribution of highway user tax revenues.

(b) No recommended jurisdictional change in the plan may require the upgrading of a road prior to a transfer as a prerequisite for the transfer unless the upgrading is agreed to by the affected units of government.

**Subd. 5. Reports.** The commissioner shall report to the chairs of the committees on transportation of the senate and of the house of representatives on the progress of activities under this section, on or before August 1, 1985, and at least once every six months thereafter, until February 1, 1988.

**History:** *1Sp1985 c 10 s 29; 1988 c 629 s 40*

#### **174.04 FINANCIAL ASSISTANCE; APPLICATIONS; DISBURSEMENT.**

**Subdivision 1. Review of application.** Any state agency which receives an application from a regional development commission, metropolitan council, public transit commission, airport commission, port authority or other political subdivision of the state for financial assistance for transportation planning, capital expenditures or operations to any state or federal agency, shall first submit the application to the commissioner of transportation. The commissioner shall review the application to determine whether it contains matters that substantially affect the statewide transportation plan and priorities. If the application does not contain such matters, the commissioner shall within 15 days after receipt return the application to the applicant political subdivision for forwarding to the appropriate agency. If the application contains such matters, the commissioner shall review and comment on the application as being consistent with the plan and priorities. The commissioner shall return the application together with comments within 45 days after receipt to the applicant political subdivision for forwarding with the commissioner's comments to the appropriate agency.

**Subd. 2. Designated agent.** A regional development commission, metropolitan council, public transit commission, airport commission, port authority, or any other political subdivision of the state may designate the commissioner as its agent to receive and disburse funds by entering into an agreement with the commissioner prescribing the terms and conditions of the receipt and expenditure of the funds in accordance with federal and state laws and regulations.

**Subd. 3. Exceptions.** The provisions of this section shall not be construed as altering or amending in any way the funding procedures specified in section 161.36, 360.016 or 360.0161.

**History:** *1976 c 166 s 4; 1986 c 444*

#### **174.05 POLLUTION CONTROL AGENCY; RULES AND STANDARDS.**

**Subdivision 1. Notification by pollution control agency.** The commissioner of the pollution control agency shall inform the commissioner of transportation of all activities of the pollution control agency which relate to the adoption, revision or repeal of

any standard or rule concerning transportation established pursuant to section 116.07. Upon notification the commissioner shall participate in those activities. Participation may include, but is not limited to, access to all pertinent information collected or compiled by the pollution control agency and transmittal to the commissioner of the pollution control agency of information and expert opinions concerning the ability of affected modes of transportation to accomplish the desired objectives and the impact that alternative methods of attaining those objectives would have on present or planned transportation systems in the state.

**Subd. 2. Commissioner to submit review of proposed rules.** Prior to public hearings on any rule concerning transportation proposed by the pollution control agency, the commissioner of transportation shall submit a written review of those rules, including an analysis of their impact upon the state's transportation system, and may propose alternative rules or standards. This report shall be made part of the record of the hearing and shall be made available to any person prior to the hearing.

**Subd. 3. Report by pollution control agency.** Upon the adoption, revision or repeal of a rule concerning transportation, the commissioner of the pollution control agency shall publish a written report of the manner in which the adopted rule reflects consideration of the factors specified in section 116.07, subdivision 6, and the specific issues raised in the commissioner of transportation's report.

**History:** 1976 c 166 s 5; 1985 c 248 s 70; 1987 c 186 s 15

#### 174.06 TRANSFER OF POWERS.

**Subdivision 1. Department of highways.** All powers, duties and functions heretofore vested in or imposed on the commissioner of highways or the department of highways by chapters 160, 161, 162, 163, 164, 165, 167, 169, 173, or sections 473.404 to 473.449 or any other law relating to the duties and powers of the commissioner of highways are transferred to, vested in, and imposed on the commissioner of transportation. The position of the commissioner of highways and the department of highways as heretofore constituted are abolished.

**Subd. 2. Department of aeronautics.** All powers, duties, and functions heretofore vested in or imposed on the commissioner of aeronautics or the department of aeronautics by sections 360.011 to 360.076, 360.301 to 360.73, 360.81 to 360.91 or any other law relating to the duties and powers of the commissioner of aeronautics are transferred to, vested in, and imposed on the commissioner of transportation. The position of the commissioner of aeronautics and the department of aeronautics as heretofore constituted are abolished.

**Subd. 3. Department of public service.** All powers, duties and functions heretofore vested in or imposed on the department of public service, the public utilities commission or the commissioner of the department of public service by sections 174.60 to 174.63 are transferred to, vested in, and imposed on the commissioner of transportation.

**Subd. 4.** [Repealed, 1977 c 454 s 49]

**Subd. 5. Transfer approval of commissioner of administration.** Any and all transfers of department of public service personnel, records and funds to the department of transportation, made pursuant to the provisions of this section, shall be subject to the approval of the commissioner of administration.

**Subd. 6.** [Repealed, 1981 c 253 s 48]

**Subd. 7. Proposals for implementation.** It is the intent of the legislature that gas, oil, slur and other pipelines, long-distance conveyor belt systems and other modes of transportation not now regulated by the state be constructed and operated in a manner that best serves the public good and complements other means of transportation. The commissioner of transportation shall submit to the governor and the legislature, no later than January 1, 1979, specific proposals, drafted in bill form if appropriate, to implement this policy within the areas of responsibility assigned to the department of transportation.

**Subd. 8. Recommendations for statutory revisions.** The commissioner shall submit, together with the proposals required by subdivision 7, specific recommendations of language to update all statutory sections which relate to the operation of the department and are in need of revision. The commissioner's report shall give special consideration to sections affecting rulemaking and public hearings, to language or provisions rendered obsolete by passage of time, and to overall clarity and brevity of the statutes.

**History:** 1976 c 166 s 6; 1977 c 124 s 1; 1980 c 614 s 123; 1986 c 444; 1987 c 186 s 15; 1993 c 13 art 2 s 1

#### **174.10 PROCEEDINGS BEFORE TRANSPORTATION REGULATION BOARD.**

**Subdivision 1. Notice of contested case.** The commissioner in any contested case before the transportation regulation board shall give reasonable notice to representatives of associations or other interested groups or persons who have registered their names with the board for that purpose, to all parties and to cities and municipalities which the board deems to be interested in the proceeding. The commissioner may prescribe an annual fee to be credited to the general fund, which fee shall be a charge to all registered groups or persons. This charge is to cover the out-of-pocket costs involved in giving such notice.

**Subd. 2. Investigatory powers.** In all matters over which the commissioner has regulatory, or enforcement authority, the commissioner may issue subpoenas and compel the attendance of witnesses and the production of all necessary papers, books, records, documents, and other evidentiary material. Any person failing or refusing to appear to testify regarding any matter about which the person may be lawfully questioned or to produce any papers, books, records, documents, or other evidentiary materials in the matter to be heard, after having been required by a subpoena of the commissioner to do so may, upon application by the commissioner to the district court in any district, be ordered to comply therewith. An administrative law judge in a rulemaking or contested case proceeding may, on behalf of the commissioner, issue subpoenas, administer oaths to witnesses, and take their affirmations. Depositions may be taken within or without the state by the commissioner or the commissioner's designee in the manner provided by law for the taking of depositions in civil actions. A subpoena or other process or paper may be served upon any person named therein, anywhere within the state by any officer authorized to serve subpoenas or other process or paper in civil actions, with the same fees and mileage and in the same manner as prescribed by law for service of process issued out of the district court of this state.

**Subd. 3. Prosecution.** In proceedings which involve a hearing before the transportation regulation board, the matter shall be investigated and prosecuted before the board by the commissioner of transportation representing the interests of the people of this state.

**Subd. 4. When board lacks jurisdiction.** If, in any proceeding before the transportation regulation board relating to or involving the reasonableness of rates, fares, charges, or classifications, the board decides that it does not have jurisdiction because the traffic covered by the rates, fares, charges, or classifications is interstate commerce, the transportation regulation board shall issue an order dismissing the proceeding and stating the ground of the dismissal, which order may be appealed from in like manner as other appealable orders.

**History:** 1976 c 166 s 8; 1980 c 534 s 15-17; 1984 c 640 s 32; 1986 c 444

#### **174.14 VALUE ANALYSIS OF PROJECTS; POLICY.**

The legislature finds that the application of the principles and techniques of value analysis in reducing the cost of state construction projects is in the interest of the efficient operation of state government. It is therefore the policy of the legislature to support, encourage and, where necessary, to authorize the application of some or all of those principles by agencies and departments of the state.

**History:** 1977 c 251 s 1



**174.15 DEFINITIONS.**

Subdivision 1. **Scope.** For the purposes of sections 174.14 to 174.17, and unless a different meaning is indicated by the context, the terms defined in this section have the meanings given them.

Subd. 2. **Construction project.** "Construction project" means any state construction project undertaken by the department of transportation.

Subd. 3. **Value analysis.** "Value analysis" means the systematic and creative functional analysis of construction projects, specifications, standards, practices and procedures for the purposes of identifying and eliminating unnecessary costs by developing modifications which satisfy required functions of a project for the lowest cost in a manner consistent with requirements for performance, reliability, quality and maintainability.

Subd. 4. **Value engineering proposal.** "Value engineering proposal" means a formal written proposal with supporting documentation. A value engineering proposal shall be developed by application of value analysis principles, shall be documented by a contractor or subcontractor pursuant to the provisions of the construction contract, and shall suggest one or more changes in the construction project, specifications, standards, practices or procedures which would result in direct and immediate net savings in terms of reducing the costs of the construction contract.

**History:** 1977 c 251 s 2

**174.16 CONTRACTS TO INCLUDE VALUE ANALYSIS AUTHORIZATION.**

All contracts for construction projects may contain contract provisions which:

(a) authorize the contractor, with regard to specified matters governed by the contract, and any subcontractor, with regard to matters governed by the subcontracting agreement with the contractor, to submit value engineering proposals as provided in sections 174.15 to 174.17;

(b) specify such procedural and substantive requirements for the preparation, development and documentation for value engineering proposals as may be required for the particular construction project;

(c) require that copies of all value engineering proposals and all supporting documents be submitted to the commissioner of transportation; and

(d) provide that if a value engineering proposal is adopted for the construction project contract as provided in section 174.17, a supplemental agreement shall reduce contract payments to the contractor or subcontractor that submitted the value engineering proposal, by an amount equal to one-half of the amount of direct and immediate net savings under the contract resulting from the adoption of the value engineering proposal.

**History:** 1977 c 251 s 3

**174.17 EVALUATION OF VALUE ENGINEERING PROPOSALS.**

Subdivision 1. **Investigate, analyze, and estimate savings.** After receipt of a value engineering proposal and supporting documents, the commissioner of transportation shall investigate and analyze the value engineering proposal, estimate the amount of the direct and immediate net savings in terms of construction project contract costs which would result upon adoption of the value engineering proposal.

Subd. 2. **Approval.** Subject to the provisions of sections 174.15 to 174.17 and the provisions of any other applicable law, if the commissioner of transportation determines, based upon the reports and recommendations of the department, that adoption of a value engineering proposal will result in direct and immediate savings in the construction project contract costs, the commissioner shall approve and authorize the adoption of the implementing supplemental agreement and the supplemental agreement shall be processed and adopted as otherwise provided by law.

**History:** 1977 c 251 s 4; 1986 c 444

**174.21 PUBLIC TRANSIT ASSISTANCE AND TRANSPORTATION MANAGEMENT; PURPOSE.**

It is the purpose of sections 174.21 to 174.27 to:

- (a) provide access to transit for persons who have no alternative mode of transit available;
- (b) increase the efficiency and productivity of public transit systems;
- (c) alleviate problems of automobile congestion and energy consumption and promote desirable land use where such activities are cost-effective;
- (d) maintain a state commitment to public transportation; and
- (e) meet the needs of individual transit systems to the extent they are consistent with the other objectives stated above.

**History:** 1977 c 454 s 18; 1978 c 793 s 66; 1982 c 586 s 1

**174.22 DEFINITIONS.**

Subdivision 1. **Scope.** For the purposes of sections 174.21 to 174.27 the following terms have the meaning given them.

Subd. 2. **Commuter van.** "Commuter van" means a motor vehicle used in a ride-sharing arrangement and used principally to provide prearranged transportation of persons for a fee to or from their place of employment or to or from a transit stop authorized by a local transit authority:

(a) when the vehicle is operated by a person who does not drive the vehicle for that person's principal occupation but is driving it only to or from that person's principal place of employment or to or from a transit stop authorized by a local transit authority; or

(b) when the vehicle is operated for personal use at other times by an authorized driver.

Subd. 2a. **Metropolitan area.** "Metropolitan area" has the meaning given it in section 473.121.

Subd. 3. **Metropolitan council.** "Metropolitan council" means the council established by section 473.123.

Subd. 4. [Repealed, 1994 c 628 art 3 s 209]

Subd. 5. **Operating deficit.** "Operating deficit" means the amount by which the total prudent operating expenses incurred in the operation of the public transit system exceeds the amount of operating revenue derived from the system.

Subd. 6. **Paratransit.** "Paratransit" means the transportation of passengers by motor vehicle or other means of conveyance by persons operating on a regular and continuing basis and the transportation or delivery of packages in conjunction with an operation having the transportation of passengers as its primary and predominant purpose and activity, but excluding regular route transit. "Paratransit" includes transportation by car pool and commuter van, point deviation and route deviation services, shared-ride taxi service, dial-a-ride service, and other similar services.

Subd. 7. **Public transit or transit.** "Public transit" or "transit" means general or specific transportation service provided to the public on a regular and continuing basis. "Public transit" or "transit" includes paratransit and regular route transit.

Subd. 8. **Regular route transit.** "Regular route transit" means transportation of passengers for hire by a motor vehicle or other means of conveyance by any person operating on a regular and continuing basis as a common carrier on fixed routes and schedules. "Regular route transit" does not include transportation of children to or from school or of passengers between a common carrier terminal station and a hotel or motel, transportation by common carrier railroad or common carrier railroads or by taxi, transportation furnished by a person solely for that person's employees or customers, or paratransit.

Subd. 9. **Large urbanized area service.** "Large urbanized area service" means the

transportation service provided by the Duluth transit authority but does not include elderly and handicapped service, as defined in subdivision 13, provided by that transit authority.

Subd. 10. **Urbanized area service.** "Urbanized area service" means a transportation service operating in an urban area of more than 50,000 persons but does not include elderly and handicapped service, as defined in subdivision 13.

Subd. 11. **Small urban area service.** "Small urban area service" means a transportation service operating in an area with a population between 2,500 and 50,000.

Subd. 12. **Rural area service.** "Rural area service" means a transportation service primarily operated in an area having population centers of less than 2,500 persons.

Subd. 13. **Elderly and handicapped service.** "Elderly and handicapped service" means transportation service provided on a regular basis in urbanized or large urbanized areas and designed exclusively or primarily to serve individuals who are elderly or handicapped and unable to use regular means of public transportation.

**History:** 1977 c 454 s 19; 1982 c 586 s 2; 1983 c 371 s 2; 1984 c 654 art 3 s 63-66; 1986 c 444

### 174.23 GENERAL POWERS AND DUTIES.

Subdivision 1. **General.** The commissioner shall have all powers necessary and convenient to carry out the provisions of sections 174.21 to 174.27 including the power to: (a) review applications for financial assistance, execute contracts, and obligate and expend program funds, upon conditions and limitations as the commissioner deems necessary for purposes of program and project implementation, operation, and evaluation, (b) accept and disburse federal funds available for the purposes of sections 174.21 to 174.27, and (c) act upon request as the designated agent of any eligible person for the receipt and disbursal of federal funds. The commissioner shall perform the duties and exercise the powers under sections 174.21 to 174.27 in coordination with and in furtherance of statewide, regional, and local transportation plans and transportation development programs. The commissioner shall set guidelines for financial assistance under the public transit subsidy program. The commissioner shall present any proposed guidelines regarding public transit financial assistance to a legislative committee composed of equal numbers appointed by the house local and urban affairs and senate transportation committees. The commissioner shall not implement any new guidelines regarding public transit financial assistance, between the period January 1, 1981 to April 15, 1982, without the prior approval of that committee.

Subd. 2. **Financial assistance.** The commissioner shall seek out and select eligible recipients of financial assistance under sections 174.21 to 174.27. The commissioner shall establish by rule the procedures and standards for review and approval of applications for financial assistance submitted to the commissioner pursuant to sections 174.21 to 174.27. Any applicant shall provide to the commissioner any financial or other information required by the commissioner to carry out the commissioner's duties. The commissioner may require local contributions from applicants as a condition for receiving financial assistance. Before the commissioner approves any grant, the application for the grant shall be reviewed and approved by the appropriate regional development commission only for consistency with regional transportation plans and development guides. If an applicant proposes a project within the jurisdiction of a transit authority or commission or a transit system assisted or operated by a city or county, the application shall also be reviewed by that commission, authority or political subdivision for consistency with its transit programs, policies and plans. Any regional development commission that has not adopted a transportation plan may review but may not approve or disapprove of any application.

Subd. 3. **Technical and professional assistance.** The commissioner shall offer, use, and apply the information developed pursuant to sections 174.21 to 174.27 to assist and advise political subdivisions and recipients of financial assistance in the planning, promotion, development, operation, and evaluation of programs and projects to

accomplish the purposes of sections 174.21 to 174.27. The commissioner shall seek out and select eligible recipients of such technical and professional assistance.

**Subd. 4. Research; evaluation.** The commissioner shall conduct research and shall study, analyze, and evaluate concepts, techniques, programs, and projects to accomplish the purposes of sections 174.21 to 174.27, including traffic operations improvements, preferential treatment and other encouragement of transit and paratransit services and high-occupancy vehicles, improvements in the management and operation of regular route transit services, special provision for pedestrians and bicycles, management and control of parking, changes in work schedules, and reduction of vehicle use in congested and residential areas. The commissioner shall examine and evaluate such concepts, techniques, programs, and projects now or previously employed or proposed in this state and elsewhere. The commissioner or an independent third party under contract to the commissioner shall monitor and evaluate the management and operation of public transit systems, services, and projects receiving financial or professional and technical assistance under sections 174.21 to 174.27 or other state programs to determine the manner in which and the extent to which such systems, services, and projects contribute or may contribute to the purposes of sections 174.21 to 174.27. The commissioner shall develop and promote proposals and projects to accomplish the purposes of sections 174.21 to 174.27 and shall actively solicit such proposals from municipalities, counties, legislatively established transit commissions and authorities, regional development commissions, and potential vendors. In conducting such activities the commissioner shall make the greatest possible use of already available research and information. The commissioner shall use the information developed under sections 174.21 to 174.27 in developing or revising the state transportation plan.

**Subd. 5. Reports.** By November 1, 1977, and thereafter in odd-numbered years the commissioner shall report to the appropriate committees of the legislature describing the intended activities under sections 174.21 to 174.27 for the biennium. By November 15, 1978, and thereafter in even-numbered years the commissioner shall report to the legislature on progress in achieving the purposes of sections 174.21 to 174.27. The report shall include a summary and evaluation of the results of the programs and the financial, technical, and professional assistance provided under sections 174.21 to 174.27; a description of the efforts of the commissioner to propose, advocate, and promote projects to accomplish the purposes of sections 174.21 to 174.27; an analysis of the role of private providers in the delivery of public transit services and recommendations for funding private and public providers and for coordinating the delivery of transit services by private and public providers; and the commissioner's findings, conclusions, and recommendations respecting the manner in which and the extent to which the programs, projects, and research under sections 174.21 to 174.27 contribute or may contribute to the purposes of sections 174.21 to 174.27.

**Subd. 6. Driver training.** The commissioner may make grants to any project eligible for assistance under sections 174.24 to 174.27, for the purpose of training drivers of vehicles operated by the project. The subjects of the training may include safe driving skills, techniques of assisting elderly and handicapped passengers and first aid. The commissioner may also contract with a public or private agency or institution to provide driver training to drivers of vehicles utilized by eligible projects.

**Subd. 7. Rulemaking; total operating cost.** The commissioner shall by rule define "total operating cost" as the term is used in carrying out the purposes of section 174.24. "Total operating cost" may include provisions for a fee for service. The commissioner shall consult with eligible recipients to the maximum extent feasible in formulating these rules and develop necessary and reasonable changes in cost and fee allowability provisions and financial examination procedures where possible. The rules are subject to the provisions in the administrative procedure act of sections 14.001 to 14.69.

**Subd. 8. Program administration.** The commissioner shall assign the administration of the programs set forth in sections 174.21 to 174.27 to a single division within the department of transportation.

**History:** 1977 c 454 s 20; Ex 1979 c 1 s 17,18; 1981 c 363 s 41; 1982 c 424 s 130; 1982 c 586 s 3,4; 1984 c 654 art 3 s 67,68; 1986 c 444; 1987 c 384 art 2 s 1; 1990 c 422 s 10

**174.24 PUBLIC TRANSIT SUBSIDY PROGRAM.**

Subdivision 1. **Establishment; purpose.** A public transit participation program is established to carry out the objectives stated in section 174.21 by providing financial assistance from the state to eligible recipients outside of the metropolitan area.

Subd. 2. **Eligibility; applications.** Any legislatively established public transit commission or authority, any county or statutory or home rule charter city providing financial assistance to or operating public transit, any private operator of public transit, or any combination thereof is eligible to receive financial assistance through the public transit participation program. Eligible recipients must be located outside of the metropolitan area.

Subd. 2a. **Eligible activities.** Activities eligible for assistance under the program include but are not limited to:

- (1) planning and engineering design for transit services and facilities;
- (2) capital assistance to purchase or refurbish transit vehicles and other capital expenditures necessary to provide a transit service;
- (3) operating assistance as provided under subdivision 3b; and
- (4) other assistance for public transit services that furthers the purposes of section 174.21.

Subd. 3. **Financial assistance.** Payment of financial assistance shall be by contract between the commissioner and an eligible recipient.

Subd. 3a. [Repealed, 1984 c 654 art 3 s 153 subd 1]

Subd. 3b. **Operating assistance.** The commissioner shall determine the total operating cost of any public transit system receiving or applying for assistance in accordance with generally accepted accounting principles. To be eligible for financial assistance, an applicant or recipient shall provide to the commissioner all financial records and other information and shall permit any inspection reasonably necessary to determine total operating cost and correspondingly the amount of assistance which may be paid to the applicant or recipient. Where more than one county or municipality contributes assistance to the operation of a public transit system, the commissioner shall identify one as lead agency for the purpose of receiving moneys under this section.

Prior to distributing operating assistance to eligible recipients for any contract period, the commissioner shall place all recipients into one of the following classifications: large urbanized area service, urbanized area service, small urban area service, rural area service, and elderly and handicapped service. The commissioner shall distribute funds under this section so that the percentage of total operating cost paid by any recipient from local sources will not exceed the percentage for that recipient's classification, except as provided in an undue hardship case. The percentages shall be: for large urbanized area service, 55 percent; for urbanized area service and small urban area service, 40 percent; for rural area service, 35 percent; and for elderly and handicapped service, 35 percent. The remainder of the total operating cost will be paid from state funds less any assistance received by the recipient from any federal source. For purposes of this subdivision "local sources" means all local sources of funds and includes all operating revenue, tax levies, and contributions from public funds, except that the commissioner may exclude from the total assistance contract revenues derived from operations the cost of which is excluded from the computation of total operating cost.

If a recipient informs the commissioner in writing after the establishment of these percentages but prior to the distribution of financial assistance for any year that paying its designated percentage of total operating cost from local sources will cause undue hardship, the commissioner may reduce the percentage to be paid from local sources by the recipient and increase the percentage to be paid from local sources by one or more other recipients inside or outside the classification, provided that no recipient shall have its percentage thus reduced or increased for more than two years successively. If for any year the funds appropriated to the commissioner to carry out the purposes of this section are insufficient to allow the commissioner to pay the state share

of total operating cost as provided in this paragraph, the commissioner shall reduce the state share in each classification to the extent necessary.

**Subd. 3c. Nonoperating assistance.** The commissioner shall determine the total cost of any planning and engineering design, capital assistance, other capital expenditures, and other assistance for public transit services that furthers the purposes of section 174.21 for any public transit system receiving or applying for the assistance in accordance with generally accepted accounting principles. To be eligible for nonoperating-cost financial assistance, an applicant or recipient shall provide to the commissioner all financial records and other information and shall permit any inspection reasonably necessary to determine total cost and the amount of assistance that may be paid to the applicant or recipient. When more than one county or municipality contributes assistance to the operation of a public transit system, the commissioner shall identify one as a lead agency for the purpose of receiving money under this section. The commissioner has the sole discretion to determine the amount of state funds distributed to any recipient for non-operating-cost assistance.

**Subd. 4.** [Repealed, 1984 c 654 art 3 s 153 subd 1]

**Subd. 5. Method of payment, operating assistance.** Payments for operating assistance under this section shall be made in the following manner:

- 50 percent of the total contract amount in the first month of operation;
- 40 percent of the total contract amount in the seventh month of operation;
- 9 percent of the total contract amount in the twelfth month of operation; and
- 1 percent of the total contract amount after the final audit.

**Subd. 5a. Method of payment, nonoperating assistance.** Payments for planning and engineering design, eligible capital assistance, and other eligible assistance for public transit services furthering the purposes of section 174.21, excluding operating assistance, shall be made in an appropriate manner as determined by the commissioner.

**History:** 1977 c 454 s 21; Ex1979 c 1 s 19-21; 1981 c 363 s 42,43; 3Sp1981 c 2 art 1 s 17; 1982 c 424 s 130; 1982 c 586 s 5-8; 1983 c 293 s 75; 1984 c 654 art 3 s 69-72; 1991 c 233 s 62; 1992 c 394 s 1-4

**174.245** [Repealed, 1992 c 394 s 5]

**174.25** [Repealed, 1982 c 586 s 10]

### **174.255 PARATRANSIT PROGRAMS; ACCESSIBILITY; INSURANCE.**

**Subdivision 1. Handicapped accessibility.** The commissioner shall require any paratransit project receiving assistance under section 174.24 that includes the operation of two or more vehicles other than automobiles or taxis to provide at least one vehicle that is accessible to handicapped individuals and may require additional accessible vehicles if necessary to serve handicapped individuals expected to use the project. A vehicle is accessible if it is equipped to allow transportation of an individual confined to a wheelchair or using an orthopedic device.

**Subd. 2. Assistance in obtaining insurance.** In order to reduce the expense of liability insurance required for paratransit projects eligible for assistance under section 174.24, the commissioner and the commissioner of commerce shall investigate the causes of high liability insurance costs and shall take the appropriate administrative action to assist paratransit projects to obtain liability insurance coverage from qualified insurance carriers at the lowest available cost. Appropriate administrative action includes: (a) taking bids from and negotiating and entering into contracts with qualified carriers to provide liability insurance for eligible paratransit projects that wish to be covered; and (b) providing technical and administrative assistance to eligible paratransit projects to assist them in securing low-cost liability insurance.

**Subd. 3. Operator assistance.** A person operating or assisting the operation of a vehicle while employed by a program such as "project mobility" may leave the vehicle to enter premises in order to assist a person who does not require emergency ambulance service to gain access and entrance to the vehicle. The assistance shall include assisting

through the first entrance to a building. Operators of the special transportation vehicles shall provide the necessary passenger assistance for door-through-door service. Assistance shall also include assisting wheelchair passengers over any exterior steps essential to either departure or destination buildings, subject to both the steps and the wheelchair being in good repair. If an operator or assistant refuses to assist because of the condition of the steps or the wheelchair, the operator of the service shall send letters to the commissioner of transportation and the person denied service detailing the corrective measures necessary to qualify for service.

**History:** *Ex1979 c 1 s 24; 1981 c 357 s 67; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92; 1987 c 384 art 2 s 41,42*

#### 174.256 PARK AND RIDE PROGRAM.

**Subdivision 1. Purpose.** It is the purpose of this section to encourage citizens of Minnesota to transfer from low-occupancy vehicles to multioccupancy vehicles, to reduce the use of the automobile and provide for more efficient usage of existing facilities in heavily traveled corridors and congested areas, to divert automobile drivers from parking spaces in metro areas, to decrease low-occupancy vehicle miles driven and the congestion, pollution, energy consumption, highway damage, and other costs associated with highway use, and to increase the efficiency and productivity of and benefit from public investments in public park and ride facilities and systems in the state, reducing the need for increases in urban land used for parking. It is also the purpose of this section to encourage the use of van pools, car pools, and ride sharing by the citizens of the state.

**Subd. 2. Definitions.** For purposes of this section the following terms have the meanings given them in this subdivision:

- (a) "Commissioner" means the commissioner of transportation.
- (b) "Park and ride facility" means a facility consisting of a park and ride lot where commuters' automobiles are parked, and, within a reasonable walking distance, a station or other transfer point where commuters board the transit mode.
- (c) "Transit mode" includes transportation by bus, car pool, van pool, and other similar services.
- (d) "Exclusive use park and ride lot" means a parking lot that is intended to be used exclusively for park and ride purposes, is constructed with public money and is located within 100 miles of a central business district.
- (e) "Joint use park and ride lot" means a parking lot that is intended to be used for other purposes in addition to park and ride and is located within 100 miles of a central business district.
- (f) "Fringe parking lot" means a parking lot located outside but near a central business district.

**Subd. 3. General powers and duties.** The commissioner shall have the power to:

- (a) Develop and monitor a comprehensive park and ride facility program throughout the state. The program shall coordinate and provide money for the development of a statewide program of park and ride facilities, including joint use park and ride lots, exclusive use park and ride lots, and fringe park and ride lots;
- (b) Offer, use and apply the information developed pursuant to clause (a) to assist and advise political subdivisions and recipients of financial assistance in the planning, promotion, development, operation and evaluation of park and ride service facilities. The political subdivision or eligible recipient is responsible for the repair and maintenance of the facility by using local money;
- (c) Act upon request as the designated agent of any eligible person for the receipt and disbursement of federal money;
- (d) Contract for or provide services as needed in the design or construction of park and ride facilities; and
- (e) Establish rules necessary for implementation of the program.

The commissioner shall perform the duties and exercise the powers under this section in coordination with and in furtherance of statewide, regional, and local transportation plans and transportation development programs.

**Subd. 4. Eligibility; applications.** A statutory or home rule charter city, county, school district, independent board or agency is eligible to receive financial assistance through the park and ride grant program. Applications for grants shall be approved or denied by the commissioner within 120 days of receipt.

**Subd. 5. Evaluation and reports.** The commissioner shall evaluate or contract for the evaluation of park and ride programs developed under this section and submit a report to the legislature by January 15, 1981, including the following information:

(a) The amounts of money spent or obligated for the park and ride program by the commissioner and the persons receiving those amounts;

(b) The number and type of public park and ride lots in use and a physical description of each;

(c) The types of lots in use, number of individuals served and areas covered;

(d) A comparison of the cost of providing different types of service;

(e) A review of the achievements or failures of the project, problems encountered in implementation and conclusions and recommendations concerning future action.

**History:** 1980 c 579 s 14; 1Sp1981 c 4 art 2 s 13; 1985 c 248 s 70

#### 174.257 RIDESHARING PROGRAM.

**Subdivision 1. Requirements.** The commissioner of transportation shall establish a ridesharing program in order to advise citizens of the available alternatives to travel by low occupancy vehicles and the benefits derived from sharing rides. The program must provide citizens with necessary information and opportunities for sharing rides, encourage citizens to share rides, and assist citizens in obtaining access to shared rides. The program must make use of existing services and agencies whenever possible. The program must give priority to assisting employers who will implement employee ridesharing programs. The services provided by the program must include:

(a) providing general information to potential ridesharing users;

(b) establishing procedures for the implementation of ridesharing programs by individuals, groups, corporations, or local agencies;

(c) offering assistance to local governments and other political subdivisions in implementing ridesharing programs;

(d) providing technical assistance to those individuals, groups, corporations, or local agencies;

(e) providing advice to individuals requesting assistance in finding ridesharing opportunities and programs;

(f) providing assistance in obtaining insured leased vans and management assistance to individuals and persons implementing ridesharing programs.

**Subd. 2. No tax or license.** No political subdivision may impose a tax on, or require a license for a ridesharing arrangement as defined in section 169.01, subdivision 63.

**Subd. 3. Vehicle use by political subdivision.** A political subdivision may authorize the use of motor vehicles which it owns or operates for ridesharing arrangements for its employees, and may establish reasonable reimbursement rates for that use.

**Subd. 4. Vehicle use by state.** The state may authorize the use of motor vehicles which it owns or operates for ridesharing arrangements for its employees, and shall establish reasonable reimbursement rates for that use. The commissioner of administration shall by September 1, 1983, establish a demonstration program for using state-owned vehicles, other than commuter vans, for use in ridesharing arrangements for state employees.

**History:** 1980 c 579 s 15; 1980 c 618 s 13; 1983 c 311 s 7



174.26 [Repealed, 1982 c 586 s 10]

174.265 [Repealed, 1984 c 654 art 3 s 153 subd 1]

#### 174.27 PUBLIC EMPLOYER COMMUTER VAN PROGRAMS.

Any statutory or home rule charter city, county, school district, independent board or agency may acquire or lease commuter vans, enter into contracts with another public or private employer to acquire or lease such vans, or purchase such a service for the use of its employees. The governing body of any such city, county, or school district may by resolution establish a commuter van revolving fund to be used to acquire or lease commuter vans for the use of its employees. Any payments out of the fund shall be repaid to the fund out of revenues derived from the use by the employees of the city, county, or school district, of the vans so purchased or leased. Any city, county, or school district which establishes a commuter van acquisition program or contracts for this service is authorized to levy a tax annually on all taxable property in the subdivision for the purpose of establishing a commuter van revolving fund and of paying the administrative and promotional costs of the program which levy may be in excess of all charter taxing limitations. The governing body of any city, county, or school district may by resolution terminate the commuter van revolving fund and use the funds for other purposes authorized by law.

**History:** 1977 c 454 s 24; 1989 c 277 art 4 s 17; 1992 c 511 art 5 s 5; 1994 c 505 art 2 s 3

174.28 [Repealed, 1981 c 363 s 58]

#### 174.29 COORDINATION OF SPECIAL TRANSPORTATION SERVICE.

Subdivision 1. **Definition.** For the purpose of sections 174.29 and 174.30 "special transportation service" means motor vehicle transportation provided on a regular basis by a public or private entity or person that is designed exclusively or primarily to serve individuals who are elderly, handicapped, or disabled and who are unable to use regular means of transportation but do not require ambulance service, as defined in section 144.801, subdivision 4. Special transportation service includes but is not limited to service provided by specially equipped buses, vans, taxis, and volunteers driving private automobiles.

Subd. 2. **Direction.** In order to provide more adequate access to transportation service for the elderly, handicapped and disabled with special transportation needs and to more efficiently utilize public and private funds expended for that purpose, all state agencies that assist, provide, reimburse or regulate special transportation services shall promote, support and facilitate coordination of those services with other special services and with regular transportation services offered to the general public.

Subd. 3. [Expired]

**History:** Ex1979 c 1 s 27; 1982 c 556 s 1; 1986 c 420 s 4; 1987 c 209 s 39; 1987 c 384 art 2 s 43

#### 174.295 ELIGIBILITY CERTIFICATION; PENALTY FOR FRAUD.

Subdivision 1. **Notice.** A provider of special transportation service, as defined in section 174.29, receiving financial assistance under section 174.24, shall include on the application form for special transportation service, and on the eligibility certification form if different from the application form, a notice of the penalty for fraudulent certification under subdivision 4.

Subd. 2. **Certifier statement.** A provider shall include on the application or eligibility certification form a place for the person certifying the applicant as eligible for special transportation service to sign, and the person certifying the applicant shall sign, stating that the certifier understands the penalty for fraudulent certification and that the certifier believes the applicant to be eligible.

Subd. 3. **Applicant statement.** A provider shall include on the application form a

place for the applicant to sign, and the applicant shall sign, stating that the applicant understands the penalty for fraudulent certification and that the information on the application is true.

**Subd. 4. Penalty.** A person is guilty of a misdemeanor if:

(1) the person fraudulently certifies to the special transportation service provider that the applicant is eligible for special transportation service; or

(2) the person obtains certification for special transportation service by misrepresentation or fraud.

**History:** 1993 c 326 art 4 s 4

### **174.30 OPERATING STANDARDS FOR SPECIAL TRANSPORTATION SERVICE.**

**Subdivision 1. Applicability limitations; by type of provider; by source of funds.** The operating standards for special transportation service adopted under this section do not apply to special transportation provided by:

- (a) A common carrier operating on fixed routes and schedules;
- (b) A volunteer driver using a private automobile;
- (c) A school bus as defined in section 169.01, subdivision 6; or
- (d) An emergency ambulance regulated under chapter 144.

The operating standards adopted under this section only apply to providers of special transportation service who receive grants or other financial assistance from either the state or the federal government, or both, to provide or assist in providing that service; except that the operating standards adopted under this section do not apply to any nursing home licensed under section 144A.02, to any board and care facility licensed under section 144.50, or to any day training and habilitation services, day care, or group home facility licensed under sections 245A.01 to 245A.19 unless the facility or program provides transportation to nonresidents on a regular basis and the facility receives reimbursement, other than per diem payments, for that service under rules promulgated by the commissioner of human services.

**Subd. 2. Authority to adopt; purpose and content; rulemaking.** The commissioner of transportation shall adopt by rule standards for the operation of vehicles used to provide special transportation service which are reasonably necessary to protect the health and safety of individuals using that service. The commissioner, as far as practicable, consistent with the purpose of the standards, shall avoid adoption of standards that unduly restrict any public or private entity or person from providing special transportation service because of the administrative or other cost of compliance.

Standards adopted under this section must include but are not limited to:

- (a) qualifications of drivers and attendants, including driver training requirements that must be met before a driver provides special transportation;
- (b) safety of vehicles and necessary safety equipment;
- (c) general requirements concerning inspection and maintenance of vehicles, replacement vehicles, standard vehicle equipment, and specialized equipment necessary to ensure vehicle usability and safety for disabled persons;
- (d) minimum insurance requirements; and
- (e) assessment of administrative penalties for violations.

The commissioner shall consult with the council on disability before making a decision on a variance from the standards.

**Subd. 2a. Vehicle and equipment safety; provider responsibilities.** (a) Every special transportation service provider shall systematically inspect, repair, and maintain, or cause to be inspected, repaired, and maintained, the vehicles and equipment subject to the control of the provider. Each vehicle and its equipment must be inspected daily. A vehicle may not be operated in a condition that is likely to cause an accident or breakdown of the vehicle. Equipment, including specialized equipment necessary to ensure

vehicle usability and safety for disabled persons, must be in proper and safe operating condition at all times.

(b) Each special transportation provider shall maintain the following records for each vehicle:

(1) an identification of the vehicle, including make, serial number, and year, and, if the vehicle is not owned by the provider, the name and address of the person furnishing the vehicle;

(2) a schedule of inspection and maintenance operations to be performed;

(3) a record of inspections, repairs, and maintenance showing the date and nature;

(4) a lubrication record; and

(5) a record of tests conducted to ensure that emergency doors or windows and wheelchair lifts function properly.

**Subd. 3. Other standards; wheelchair securement.** A special transportation service that transports individuals occupying wheelchairs is subject to the provisions of sections 299A.11 to 299A.18 concerning wheelchair securement devices. The commissioners of transportation and public safety shall cooperate in the enforcement of this section and sections 299A.11 to 299A.18 so that a single inspection is sufficient to ascertain compliance with sections 299A.11 to 299A.18 and with the standards adopted under this section.

**Subd. 4. Vehicle and equipment inspection; procedures.** (a) The commissioner shall inspect or provide for the inspection of vehicles at least annually. In addition to scheduled annual inspections and reinspections scheduled for the purpose of verifying that deficiencies have been corrected, unannounced inspections of any vehicle may be conducted. The commissioner shall provide for the unannounced inspection quarterly of at least five percent of the vehicles operated by providers certified by the commissioner.

(b) On determining that a vehicle or vehicle equipment is in a condition that is likely to cause an accident or breakdown, the commissioner shall require the vehicle to be taken out of service immediately. The commissioner shall require that vehicles and equipment not meeting standards be repaired and brought into conformance with the standards and shall require written evidence of compliance from the operator before allowing the operator to return the vehicle to service.

(c) The commissioner shall provide in the rules procedures for inspecting vehicles, removing unsafe vehicles from service, determining and requiring compliance, and reviewing driver qualifications.

**Subd. 4a. Certification of special transportation providers.** The commissioner shall annually evaluate or provide for the evaluation of each provider of special transportation service regulated under this section and certify that the provider is in compliance with the standards under this section.

**Subd. 5. Rules.** The rules authorized under this section shall be adopted in accordance with the provisions of the administrative procedures act, sections 14.001 to 14.69.

**Subd. 6. Preemption of other requirements.** Notwithstanding any other law, ordinance, or resolution to the contrary, an operator of special transportation service that has been issued a current certificate of compliance under subdivision 4a for vehicles used to provide that service is not required to obtain any other state or local permit, license or certificate as a condition of operating the vehicles for that purpose. This subdivision does not exempt any vehicle from the requirements imposed on vehicles generally as a condition of using the public streets and highways.

The requirements of chapter 221 do not apply to vehicles when they are being operated under a current certificate of compliance issued by the commissioner.

**Subd. 7. Enforcement.** No state agency, political subdivision, or other public agency shall provide any capital or operating assistance to or reimbursement for special transportation service unless the operator providing the service has a current certificate of compliance issued under subdivision 4a.

**History:** *Ex1979 c 1 s 28; 1982 c 424 s 130; 1982 c 556 s 2; 1984 c 654 art 5 s 58;*

*1987 c 88 s 1-7; 1987 c 354 s 8; 1987 c 384 art 2 s 1; 1989 c 209 art 2 s 1; 1989 c 318 s 6; 1990 c 422 s 10; 1992 c 578 s 12; 1993 c 339 s 1*

**174.31** [Repealed, 1984 c 654 art 3 s 153 subd 1]

**174.315 SPECIAL TRANSPORTATION; LIFE SUPPORT SERVICES PROHIBITED.**

Special transportation services shall not provide or offer transportation to persons who might reasonably require basic or advanced life support, as defined in section 144.804, while in the special transportation vehicle. The commissioner of health shall investigate all complaints alleging violations of this section and shall report the results of the investigation to the commissioner of transportation. The minimum penalty for a violation shall be revocation of the certificate issued under section 174.30, subdivision 4a.

**History:** *1990 c 556 s 3*

**174.32 TRANSIT ASSISTANCE PROGRAM.**

Subdivision 1. **Establishment; purpose.** A transit assistance program is established to provide transit assistance within the state from the fund created in subdivision 2 to eligible recipients for transit service activities as provided in this section.

Subd. 2. **Transit assistance fund; distribution.** The transit assistance fund receives money distributed under section 297B.09. Eighty percent of the receipts of the fund must be placed into a metropolitan account for distribution to recipients located in the metropolitan area and 20 percent into a separate account for distribution to recipients located outside of the metropolitan area. Except as otherwise provided in this subdivision, the metropolitan council is responsible for distributing assistance from the metropolitan account, and the commissioner is responsible for distributing assistance from the other account.

Subd. 3. **Eligible recipients.** A legislatively established public transit commission; a public authority organized and existing under chapter 398A; a county or statutory or home rule charter city operating, intending to operate, or providing financial assistance to a transit service; a rail authority; or a private operator of public transit is eligible for assistance under the program. The National Railroad Passenger Corporation, known as Amtrak, and any trolley system outside the metropolitan area are not eligible for assistance under the program.

Subd. 4. **Eligible services.** Transit services eligible for assistance under the program include but are not limited to:

- (1) public transit;
- (2) light rail transit;
- (3) commuter van, car pool, ride share, and park and ride; and
- (4) other services that further the purposes of section 174.21.

Subd. 5. **Eligible activities.** Activities eligible for assistance under the program include but are not limited to:

- (1) planning and engineering design for transit services;
- (2) capital assistance to purchase or refurbish transit vehicles, purchase rail lines and associated facilities for light rail transit, purchase rights-of-way, and other capital expenditures necessary to provide a transit service; and
- (3) other assistance for public transit services.

Subd. 6. **Investment of transit assistance fund money.** For money deposited in the transit assistance fund on or after January 15, 1985, the commissioner of transportation shall certify to the state board of investment the amount of the transit assistance fund that in the judgment of the commissioner is not required for immediate use. The certified amount of the transit assistance fund not currently needed shall be invested by the state board of investment subject to section 11A.25. All investment income and

all investment losses attributable to the investments must be credited to the transit assistance fund. The commissioner of finance is the custodian of securities purchased under this section.

**History:** 1984 c 654 art 3 s 74; 1Sp1985 c 10 s 78-81; 1988 c 684 art 2 s 4; 1989 c 339 s 1; 1993 c 353 s 1; 1994 c 628 art 3 s 15

### 174.35 LIGHT RAIL TRANSIT.

The commissioner of transportation may exercise the powers granted in this chapter and chapter 473, as necessary, to plan, design, acquire, construct, and equip light rail transit facilities in the metropolitan area as defined in section 473.121, subdivision 2.

**History:** 1993 c 353 s 2

### 174.50 MINNESOTA STATE TRANSPORTATION FUND.

Subdivision 1. **Legislative findings; purpose.** State assistance is needed to supplement local effort and the highway user tax distribution fund in financing capital improvements to preserve and develop a balanced transportation system throughout the state. Such a system is a proper function and concern of state government and necessary to protect the safety and personal and economic welfare of all citizens. It requires capital expenditures for public facilities, improvements, and equipment that are complementary, additional, and alternate to highways and are a proper object for contracting public debt and engaging in works of internal improvements under article XI, section 5, clause (a) of the Constitution. These expenditures are needed to harmonize state and local highway systems with the requirements of the federal interstate highway system, to avoid harmful environmental impact of arterial highways on urban, scenic, and recreational areas, and to provide auxiliary facilities for the convenience and safety of persons crossing highways and persons living and working adjacent to them. Capital expenditures of this nature exceed requirements for basic highway systems and should be funded from sources other than the taxes and bonds authorized in article XIV of the Constitution. However, the improvements tend to reduce the cost of maintenance of highways to the minimum required for accommodation of traffic, and the cost may and shall continue to be paid from taxes authorized in article XIV of the Constitution. Immediate improvement needs are reconstruction and replacement of key bridges and approaches to remove obstructions to the flow of traffic on state and county highways, municipal streets and township roads and expedited completion of the interstate highway system in Minnesota by paying the state share of interstate highway segments, and a portion of the local share of interstate highway substitution projects when those interstate substitution projects are approved in accordance with state and federal law.

Subd. 1a. **Rail lines.** An additional need of the state transportation system is the acquisition and betterment of rail lines and right-of-way for preservation in the state rail bank as provided in section 222.63.

Subd. 2. **Fund created.** A Minnesota state transportation fund is created as a separate bookkeeping account in the general books of account of the state, to record receipts and disbursements of money appropriated from the fund to agencies and subdivisions of the state for the acquisition and betterment of public land, buildings, and capital improvements needed for the development of the state transportation system.

Subd. 3. **Fund revenues; appropriation.** The state treasurer shall deposit in the fund as received all proceeds of Minnesota state transportation bonds, except accrued interest and premiums; all other money appropriated by law for the purposes of the fund; and all money granted to the state for these purposes by the federal government or any agency thereof. All such receipts are annually appropriated for the permanent construction and improvement purposes of the fund and shall be and remain available for expenditure in accordance with this section and applicable federal laws until the purposes for which the appropriations were made have been accomplished or abandoned. Upon certification to the commissioner of finance by the agency or subdivision to

which any appropriation of bond proceeds has been made that the purpose thereof has been accomplished or abandoned, any unexpended balance of the appropriation, unless reappropriated by law, shall be transferred to the state bond fund and is appropriated to reduce the amount of tax otherwise required by the constitution to be levied for that fund. No money shall be transferred to the state transportation fund from the highway user tax distribution fund or any other fund created by article XIV of the Constitution.

**Subd. 4. Certification and disbursal for state projects.** Before disbursement of an appropriation made from the fund to the commissioner of transportation or any other officer or agency of the state the commissioner shall certify to the commissioner of finance that the project for which the funds are appropriated has been reviewed by the proper regional development commission or the metropolitan council as the case may be, for consistency with the long-term comprehensive development plans and guides for which that agency is responsible.

**Subd. 5. Certification and disbursal for projects of political subdivisions.** Before disbursement of an appropriation made from the fund to the commissioner of transportation for grants to subdivisions of the state, the commissioner shall certify to the commissioner of finance:

(1) that the project for which the grant is made has been reviewed as provided in subdivision 4;

(2) that the project conforms to the program authorized by the appropriation law and rules adopted by the department of transportation consistent therewith; and

(3) that the financing of any estimated cost of the project in excess of the amount of the grant is assured by the appropriation of the proceeds of bonds or other funds of the subdivision, or by a grant from an agency of the federal government, within the amount of funds then appropriated to that agency and allocated by it to projects within the state, and by an irrevocable undertaking, in a resolution of the governing body of the subdivision, to use all funds so made available exclusively for the project, and to pay any additional amount by which the cost exceeds the estimate through appropriation to the construction fund of additional funds or the proceeds of additional bonds to be issued by the subdivision.

**Subd. 6. Grant rules.** Procedures for application for grants from the fund, conditions for their administration, and criteria for priority, unless established in the laws authorizing the grants, shall be established by rules of the department of transportation consistent with those laws. Criteria for determining priorities and amounts of grants shall be based on consideration of:

(1) effectiveness of the project in eliminating a deficiency in the transportation system;

(2) number of persons affected by the deficiency;

(3) economic feasibility;

(4) effect on optimum land use and other concerns of state and regional planning;

(5) availability of other financing capability; and

(6) adequacy of provision for proper operation and maintenance after construction.

**Subd. 6a. Grant for preliminary engineering of river crossing.** The commissioner may make a grant to any political subdivision for preliminary engineering of a river crossing which requires extensive studies and evaluations to determine the environmental impact, location and design features of the crossing. A grant shall not exceed \$300,000 for a single bridge project and shall not be used for the preparation of construction plans or specifications.

Application for a grant shall be made by resolution of the governing body of the subdivision proposing to construct or reconstruct the bridge. A grant under this subdivision is subject to the procedures and criteria provided in subdivisions 4 to 6. A grant shall also be subject to the priority ranking established under the existing rules of the department if the proposed bridge has been ranked under those rules. No new rules are required for the administration of the grant program established by this subdivision.

**Subd. 7. Rules for administering funds and grants.** The commissioner of transportation shall develop rules, standards and criteria, including bridge specifications, in cooperation with road authorities of political subdivisions, for use in the administration of funds appropriated to the commissioner and for the administration of grants to subdivisions. The maximum use of standardized bridges is encouraged. Regardless of the size of the existing bridge, a bridge or replacement bridge is eligible for assistance from the state transportation fund if a hydrological survey indicates that the bridge or replacement bridge must be ten feet or more in length. Funds appropriated to the commissioner from the Minnesota state transportation fund shall be segregated from the highway tax user distribution fund and other funds created by article XIV of the Constitution.

**History:** 1976 c 339 s 1; 1977 c 454 s 26; 1979 c 280 s 3; 1981 c 338 s 1; 1981 c 361 s 16; 1984 c 412 s 1

### 174.51 MINNESOTA STATE TRANSPORTATION BONDS.

**Subdivision 1. Purposes.** For the purpose of providing money appropriated to agencies or subdivisions of the state from the Minnesota state transportation fund for the acquisition and betterment of public land, buildings, and capital improvements needed for the development of the state transportation system, when such appropriations or loans are authorized by Laws 1976, chapter 339, section 3 or another law and funds therefor are requested by the governor, the commissioner of finance shall sell and issue bonds of the state of Minnesota for the prompt and full payment of which, with interest thereon, the full faith and credit and taxing powers of the state are irrevocably pledged. Bonds shall be issued pursuant to this section only as authorized by a law specifying the purpose thereof and the maximum amount of the proceeds authorized to be expended for that purpose. Any such law, together with this section, constitutes complete authority for the issue, and such bonds shall not be subject to restrictions or limitations contained in any other law.

**Subd. 2. Sale; general obligations.** The bonds shall be sold upon sealed bids and upon notice, at a price, in form and denominations, bearing interest at a rate or rates, maturing in amounts and on dates, without option of prior redemption or subject to prepayment upon notice and at times and prices, payable at a bank or banks within or outside the state, with or without provisions for registration, conversion, exchange, and issuance of temporary bonds or notes in anticipation of the sale or delivery of definitive bonds, and in accordance with further provisions, as the commissioner of finance shall determine subject to the approval of the attorney general, but not subject to the provisions of sections 14.02, 14.04 to 14.36, 14.38, 14.44 to 14.45, and 14.57 to 14.62. Each bond shall mature within 20 years from its date of issue and shall be executed by the commissioner of finance and attested by the state treasurer under their official seals. The signatures on the bonds and on any interest coupons and the seals may be printed or otherwise reproduced, except that each bond shall be authenticated by the manual signature on its face of one of the officers or of a person authorized to sign on behalf of a bank designated by the commissioner of finance as registrar or other authenticating agent. The commissioner of finance shall ascertain and certify to the purchasers of the bonds the performance and existence of all acts, conditions, and things necessary to make them valid and binding general obligations of the state of Minnesota, subject to the approval of the attorney general.

**Subd. 3. Expenses.** All expenses incidental to the sale, printing, execution, and delivery of bonds pursuant to this section, including but not limited to actual and necessary travel and subsistence expenses of state officers and employees for such purposes, shall be paid from the Minnesota state transportation fund and the amounts necessary therefor are appropriated from that fund.

**Subd. 4. Account; appropriation.** The commissioner of finance shall maintain in the state bond fund a separate bookkeeping account designated as the Minnesota state transportation bond account, to record receipts and disbursements of money transferred to the fund to pay Minnesota state transportation bonds and interest thereon,

and of income from the investment of such money, which income shall be credited to the account in each fiscal year in an amount equal to the approximate average rate of return that year on all funds invested by the state treasurer, as determined by the treasurer, times the average balance in the account that year.

**Subd. 5. Money credited; appropriated.** The premium and accrued interest received on each issue of Minnesota state transportation bonds shall be credited to the bond account. There shall also be credited to the bond account from the general fund in the state treasury, on November 1 in each year, a sum of money equal to the amount of the tax which article XI of the Constitution would otherwise require to be levied for collection in the following year, to increase the balance in the account to an amount sufficient to pay principal and interest due and to become due with respect to Minnesota state transportation bonds. All money so credited and all income from the investment thereof is annually appropriated to the bond account for the payment of such bonds and interest thereon, and shall be available in the bond account prior to the levy of a tax for the state bond fund in any year as required by article XI of the constitution. No money shall be transferred to the Minnesota state transportation bond account from the highway user tax distribution fund or any other fund created by article XIV of the constitution. The commissioner of finance and the state treasurer are directed to make the appropriate entries in the accounts of the respective funds.

**Subd. 6. Levy; transfer of funds; appropriations.** On or before December 1 in each year, if the full amount appropriated to the bond account in subdivision 5 has not been credited thereto, the tax required by article XI of the Constitution shall be levied upon all taxable property within the state. This tax shall be subject to no limitation of rate or amount until all Minnesota state transportation bonds and interest thereon are fully paid. The proceeds of this tax are appropriated and shall be credited to the state bond fund, and the principal of and interest on the bonds are payable from such proceeds, and the whole thereof, or so much as may be necessary, is appropriated for such payments. If at any time there is not sufficient money from the proceeds of such taxes to pay the principal and interest when due on Minnesota state transportation bonds, such principal and interest shall be paid out of the general fund in the state treasury, and the amount necessary therefor is hereby appropriated.

**History:** 1976 c 339 s 2; 1982 c 424 s 130; 1983 c 301 s 143,144; 1Sp1985 c 14 art 4 s 29

## RAILROAD PASSENGER SERVICE

### 174.60 RAILROAD PASSENGER SERVICE NOT PROVIDED BY NATIONAL SYSTEM, PURPOSE.

The purpose and intent of sections 174.60 to 174.63 is to provide for a balanced transportation system in the state, required by the public convenience and necessity, by making available rail passenger service not provided by the National Railroad Passenger Corporation in its basic national rail passenger system.

**History:** 1971 c 956 s 1

### 174.61 DEFINITIONS.

**Subdivision 1. Scope.** For the purposes of sections 174.60 to 174.63 the terms defined in this section have the meanings given them.

**Subd. 2. Corporation.** "Corporation" means the National Railroad Passenger Corporation created pursuant to the Rail Passenger Service Act of 1970, Public Law Number 91-518.

**Subd. 3. Governmental unit.** "Governmental unit" means a regional development commission, county, city or town.

**History:** 1971 c 956 s 2; 1973 c 123 art 5 s 7



**174.62 AUTHORITY TO ENTER INTO AGREEMENTS.**

The commissioner of transportation, any governmental unit, or any combination thereof, may enter into any contracts or agreements pursuant to Public Law Number 91-518 and in conformance with state law governing contracts by state agencies and governmental units, to reimburse the corporation for a reasonable portion of any losses associated with the institution of intercity rail passenger service by the corporation beyond that included within the basic national rail passenger system.

*History: 1971 c 956 s 3; 1976 c 166 s 6 subd 3*

**174.63 PUBLIC HEARING; NOTICE.**

Before any contract or agreement, as provided in section 174.62, is entered into, the governing body of the governmental unit shall hold a public hearing on such proposed contract or agreement. Notice of the time and place of said hearing shall be published in one or more legal newspapers of general circulation in the area once in each week for two successive weeks prior to said hearing. The published notice shall be in a form determined by the governing body, which form shall be sufficient in size and prominent in format in order to attract the attention of the reader. In any event the notice shall be of a size at least two columns in width by six inches in length. The notice shall set forth the portion of any losses that the governmental unit proposes to reimburse the corporation.

*History: 1971 c 956 s 4*