

CHAPTER 174

DEPARTMENT OF TRANSPORTATION

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174.02 COMMISSIONER'S POWERS AND DUTIES.

[For text of subs 1 to 3, see M.S.2000]

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 surface transportation board or any other agency or instrumentality of government that 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 as provided by law on matters that directly relate to the powers and duties of the commissioner or substantially affect the statewide transportation plan.

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

(1) 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;

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

(3) the commissioner or the commissioner's designee is a nonvoting member of the metropolitan airports commission, as organized and established under sections 473.601 to 473.679;

(4) the commissioner shall cooperate with all federal agencies for the purpose of harmonizing state rules and federal regulations within the state to the extent and in the manner deemed advisable;

(5) the commissioner may conduct joint hearings with any federal agency within or outside the state and, to the extent allowed under federal law or regulation, may approve and establish freight rates and charges that depart from the distance principle required by any state law; and

(6) the commissioner may nominate members to any joint board as provided by federal acts.

[For text of subs 6 and 7, see M.S.2000]

History: 2001 c 213 s 11,12

174.03 DUTIES OF COMMISSIONER.

[For text of subs 1 to 6a, see M.S.2000]

Subd. 7. **Energy conservation.** The commissioner, in cooperation with the commissioner of commerce through the state energy office, shall evaluate all modes of transportation in terms of their levels of energy consumption. The commissioner of commerce shall provide the commissioner 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.

[For text of subd 8, see M.S.2000]

History: 1Sp2001 c 4 art 6 s 25

174.10 PROCEEDINGS INVOLVING CARRIERS.

Subdivision 1. **Notice of contested case; fee.** The commissioner in any contested case that involves a motor carrier or common carrier by rail as a party shall give reasonable notice to representatives of associations or other interested groups or persons who have registered their names with the commissioner for that purpose, to all parties and to cities and municipalities that the commissioner deems to be interested in the proceeding. The commissioner may prescribe an annual fee as a charge to all registered groups or persons. The fee must be credited to the general fund. This charge is to cover the out-of-pocket costs involved in providing the notice.

[For text of subd 2, see M.S.2000]

Subd. 3. **Prosecution.** In proceedings that involve a motor carrier or common carrier by rail as a party, the matter must be heard by the commissioner as authorized by law.

Subd. 4. **Lack of jurisdiction.** If, in any proceeding the commissioner decides that the department does not have jurisdiction, the commissioner shall issue an order dismissing the proceeding and stating the ground of the dismissal.

History: 2001 c 213 s 13-15

174.22 DEFINITIONS.

[For text of subs 1 to 8, see M.S.2000]

Subd. 9. [Repealed, 1Sp2001 c 8 art 2, s 76]

[For text of subs 10 to 13, see M.S.2000]

174.24 PUBLIC TRANSIT SUBSIDY PROGRAM.

[For text of subs 1 to 3, see M.S.2000]

Subd. 3b. **Operating assistance.** (a) 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 money under this section.

(b) Prior to distributing operating assistance to eligible recipients for any contract period, the commissioner shall place all recipients into one of the following classifications: 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 must be: 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 payments under section 174.242 plus 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. Total operating costs of the Duluth transit authority or a successor agency shall not include costs related to the Superior, Wisconsin service contract and the independent school district No. 709 service contract.

(c) 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.

[For text of subds 3c to 6, see M.S.2000]

History: *1Sp2001 c 8 art 2 s 51*

NOTE: Subdivision 3b was also amended by Laws 2001, First Special Session chapter 5, article 3, section 9, to read as follows:

"Subd. 3b. **Operating assistance.** (a) 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 money under this section.

(b) Prior to distributing operating assistance to eligible recipients for any contract period, the commissioner shall place all recipients into one of the following classifications: 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 must be: 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 payments under section 174.242 plus 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. Total operating costs for the Duluth transit authority or a successor agency shall not include costs related to the Superior, Wisconsin service contract and the independent school district No. 709 service contract.

(c) 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."

174.242 PROPERTY TAX REPLACEMENT AID.

Subdivision 1. Report of property tax revenues. By July 31, 2001, each system receiving assistance under section 174.24 must report the amount of its local share operating revenues for 2001 that are derived from property taxes to the commissioner of transportation. The reported amounts must include property tax revenues used to fund transit services in excess of the services provided under contract with the department of transportation. The reports shall separately identify the property tax revenues by the taxing jurisdiction from which the revenues were received. All general fund revenues provided by a local government unit in Minnesota shall be considered property tax revenues, except for revenues received from school districts. The portion of the St. Cloud metropolitan area transit commission's homestead and agricultural credit aid attributable to transit operating expenses shall be considered property tax revenues.

Subd. 2. Verification by commissioner. The commissioner shall examine the reports submitted under subdivision 1, and adjust the revenue amounts reported if they are determined to be in error. The commissioner may require a system to provide

whatever information is necessary to assist in determining the accuracy of the reported amounts.

Subd. 3. **Replacement aid payments.** Each system shall receive property tax replacement aid payments in calendar years 2002-2003 equal to (i) the proportion that the system's property tax amount determined under subdivision 2 is of the total amount determined under subdivision 2 for all systems, times (ii) the projected total revenues for the greater Minnesota transit fund for the full fiscal year that begins in the calendar year in which the aid is payable. A system's property tax replacement aid for 2002 under this section may not exceed 106 percent of its 2001 property tax amount determined under subdivision 2. A system's property tax replacement aid for 2003 under this section may not exceed 106 percent of its 2002 property tax replacement aid under this section. The commissioner must certify the replacement aid amounts for calendar years 2002-2003 to the commissioner of revenue by system and by taxing jurisdiction by August 15 of the preceding year. The commissioner of revenue shall deduct the certified amounts from each jurisdiction's levy limit. Replacement aid amounts for the St. Cloud metropolitan area transit commission and the Duluth transit authority shall be deducted from the levy limit for each of these jurisdictions as specified in chapter 458A. The annual payments to each system shall be made in two equal installments on July 20 and November 20.

Subd. 4. **Report to the legislature.** By January 1, 2003, the commissioner of transportation, in consultation with the commissioner of revenue, shall make a report to the legislature containing recommendations for integrating the grant program under section 174.24 with the property tax replacement aid program under this section. The recommendations shall attempt to restructure the method of financing transit operations in greater Minnesota in such a way as to minimize reliance on property taxes, while allowing the necessary flexibility to accommodate growth in service demands.

History: 1Sp2001 c 5 art 3 s 10

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. The commissioner shall not spend state funds to study light rail transit unless the funds are appropriated in legislation that identifies the route, including the origin and destination.

History: 1Sp2001 c 8 art 2 s 52

174.36 NOTICE OF STUDIES OF HIGH-SPEED RAIL.

The commissioner shall notify the chairs of the senate and house of representatives committees with jurisdiction over transportation finance whenever the commissioner spends state funds to study high-speed intercity passenger rail service.

History: 1Sp2001 c 8 art 2 s 53

174.55 MAJOR TRANSPORTATION PROJECTS COMMISSION.

Subdivision 1. **Creation and purpose.** The major transportation projects commission shall review and comment on proposed major transportation projects in which the department of transportation is involved. The commission does not expire.

[For text of subs 2 and 3, see M.S.2000]

Subd. 4. **Commissioner report.** The commissioner of transportation shall report to the commission not later than July 15 of each year. The report must consist of a listing of candidate projects that meet the criteria of major transportation projects within the definition in subdivision 5, and a listing of proposed projects for study that the commissioner believes have the potential of being major transportation projects. The report must include the commissioner's plan for funding and implementation of each project.

Subd. 5. **Major transportation project.** A major transportation project is a project that meets each of the following criteria:

- (1) involves the department of transportation;
- (2) has a construction cost, in the year in which construction is expected to begin, that exceeds 25 percent of the estimated annual construction program of the department division or construction district in which the project is located; and
- (3) is a critical element of the transportation system of its region and the state.

[For text of subd 6, see M.S.2000]

History: 2001 c 161 s 30; 1Sp2001 c 8 art 2 s 54,55

174.64 FUNCTIONS AND POWERS RELATING TO CARRIERS.

Subdivision 1. **Commissioner's powers generally.** Some of the functions of the commissioner of transportation, related to motor carriers and common carriers by rail, are quasi-judicial in nature. The commissioner may make investigations and determinations, hold hearings, prescribe rules, and issue orders with respect to the control and conduct of the carrier businesses coming within the commissioner's jurisdiction as authorized by law.

Subd. 2. **Specific functions and powers.** (a) To the extent allowed under federal law or regulation, the commissioner shall further hold hearings and issue orders in cases brought on the commissioner's own motion or by a third party in the following areas:

- (1) adequacy of services that carriers are providing to the public, including the continuation, termination, or modification of services and facilities;
- (2) reasonableness of tariffs of rates, fares, and charges, or a part or classification of a tariff; and
- (3) issuing permits.

(b) For purposes of paragraph (a), clause (2), the commissioner may authorize common carriers by rail and motor carriers for hire to file tariffs of rates, fares, and charges individually or by group. Carriers participating in group rate making have the free and unrestrained right to take independent action either before or after a determination arrived at through that procedure.

Subd. 3. **Subpoena power.** The commissioner shall have subpoena power.

Subd. 4. **Hearings; notice.** With respect to those matters within the commissioner's jurisdiction, the commissioner shall receive, hear, and determine all petitions filed with the commissioner in accordance with the procedures established by law and may hold hearings and make determinations upon the commissioner's own motion to the same extent, and in every instance, in which the commissioner may do so upon petition. Upon receiving petitions filed pursuant to sections 221.121, subdivision 1, 221.151, and 221.55, the commissioner shall give notice of the filing of the petition to representatives of associations or other interested groups or persons who have registered their names with the commissioner for that purpose and to whomever the commissioner deems to be interested in the petition. The commissioner may grant or deny the request of the petition 30 days after notice of the filing has been fully given. If the commissioner receives a written objection and notice of intent to appear at a hearing to object to the petition from any person within 20 days of the notice having been fully given, the request of the petition must be granted or denied only after a contested case hearing has been conducted on the petition, unless the objection is withdrawn before the hearing. The commissioner may elect to hold a contested case hearing if no objections to the petition are received. If a timely objection is not received, or if received and withdrawn, and the request of the petition is denied without hearing, the petitioner may request within 30 days of receiving the notice of denial, and must be granted, a contested case hearing on the petition.

History: 1980 c 534 s 2; 1983 c 293 s 76; 1986 c 468 s 1; 1999 c 238 art 2 s 32; 2001 c 213 s 16-18,30

174.65 CARRIER HEARINGS AND APPEALS.

Subdivision 1. **Hearings.** All hearings related to common carriers by rail or motor carriers and required to be conducted by the commissioner of transportation must be conducted pursuant to sections 14.001 to 14.69.

Subd. 2. **Appeals.** An appeal from an order of the commissioner must be in accordance with chapter 14.

History: 1980 c 534 s 4; 1982 c 424 s 130; 1987 c 384 art 2 s 1; 1990 c 422 s 10; 2001 c 213 s 19,30

174.66 CONTINUATION OF CARRIER RULES.

(a) Orders and directives in force, issued, or promulgated under authority of chapters 174A, 216A, 218, 219, 221, and 222 remain and continue in force and effect until repealed, modified, or superseded by duly authorized orders or directives of the commissioner of transportation. To the extent allowed under federal law or regulation, rules adopted under authority of the following sections are transferred to the commissioner of transportation and continue in force and effect until repealed, modified, or superseded by duly authorized rules of the commissioner:

(1) section 218.041 except rules related to the form and manner of filing railroad rates, railroad accounting rules, and safety rules;

(2) section 219.40;

(3) rules relating to rates or tariffs, or the granting, limiting, or modifying of permits or certificates of convenience and necessity under section 221.031, subdivision 1;

(4) rules relating to the sale, assignment, pledge, or other transfer of a stock interest in a corporation holding authority to operate as a permit carrier as prescribed in section 221.151, subdivision 1;

(5) rules relating to rates, charges, and practices under section 221.161, subdivision 4; and

(6) rules relating to rates, tariffs, or the granting, limiting, or modifying of permits under sections 221.121 and 221.151.

(b) The commissioner shall review the transferred rules, orders, and directives and, when appropriate, develop and adopt new rules, orders, or directives.

History: 1980 c 534 s 6; 1983 c 293 s 77; 1985 c 299 s 14; 1998 c 403 s 19; 1999 c 238 art 2 s 33; 2001 c 213 s 20,30

174.70 PUBLIC SAFETY RADIO COMMUNICATIONS.

[For text of subd 1, see M.S.2000]

Subd. 2. State communications system implementation; towers and other facilities.

(a) In order to facilitate construction and maintenance of the state's communications systems and to reduce the proliferation of communications towers, the commissioner may, by purchase, lease, gift, exchange, or other means, obtain sites for the erection of towers and the location of equipment and may construct buildings and structures needed for developing the state's communications systems.

(b) The commissioner may negotiate with commercial wireless service providers and other tower owners to obtain sites, towers, and equipment. Notwithstanding sections 161.433, 161.434, 161.45, and 161.46, the commissioner may by agreement lease, allow, or permit commercial wireless service providers or other tower owners to install privately owned equipment on state-owned lands, buildings, and other structures under the jurisdiction of the commissioner when it is practical and feasible to do so. The commissioner shall annually publish a list of state-owned tower sites that are available to commercial wireless service providers and other tower owners for installation of their equipment on a first-come, first-served basis for each tower or site. The commissioner may not make agreements that grant the exclusive use of towers. After the commissioner has agreed to make space available on a specific tower or at a

specific site, the commissioner shall charge a site use fee for the value of the real property or structure made available. In lieu of a site use fee, the commissioner may make agreements with commercial wireless service providers or other tower owners to place state equipment on privately owned towers and may accept improvements such as tower reinforcement, reconstruction, site development, or other site improvements to the state's communications system facilities or real or personal property.

(c) This section does not create a right to install privately owned towers on the trunk highway right-of-way.

Subd. 3. **Deposit of fees; appropriation.** Fees collected under subdivision 2 must be deposited in the trunk highway fund. The fees collected are appropriated to the commissioner to pay for developing and maintaining the communications systems that serve state agencies.

History: *1Sp2001 c 8 art 2 s 56,57*

174.88 COMMUTER RAIL FUNDING.

[For text of subd 1, see M.S.2000]

Subd. 2. **Expenditure of state funds.** The commissioner shall not spend any state funds for construction or equipment of commuter rail facilities unless the funds have been appropriated by law specifically for those purposes. The commissioner shall not spend state funds to study commuter rail unless the funds are appropriated in legislation that identifies the route, including origin and destination.

History: *1Sp2001 c 8 art 2 s 58*