

**Senate Counsel, Research,
and Fiscal Analysis**

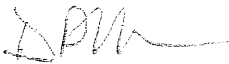
G-17 STATE CAPITOL
75 REV. DR. MARTIN LUTHER KING, JR. BLVD.
ST. PAUL, MN 55155-1606
(651) 296-4791
FAX: (651) 296-7747
JO ANNE ZOFF SELLNER
DIRECTOR

Senate

State of Minnesota

S.F. No. 1275 - Relating to the City of Wabasha

Author: Senator Steve Murphy

Prepared by: Daniel P. McGowan, Senate Counsel (651/296-4397) 

Date: March 15, 2005

The proposed legislation authorizes the city of Wabasha to establish a Port Authority Commission with all of the powers of a port authority under Minnesota Statutes, chapter 469, as well as a housing and redevelopment authority (HRA), which would replace the current Wabasha Economic Development Authority. This legislation is identical to legislation passed for various other cities in Minnesota, including Albert Lea, Austin, Cannon Falls, Redwood Falls, Detroit Lakes, Fergus Falls, and Hastings.

DPM:vs

Senator Murphy introduced--

S.F. No. 1275: Referred to the Committee on State and Local Government Operations.

1 A bill for an act

2 relating to local government; permitting the city of
3 Wabasha to establish a port authority commission;
4 proposing coding for new law in Minnesota Statutes,
5 chapter 469.

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

7 Section 1. [469.0855] [WABASHA.]

8 Subdivision 1. [ESTABLISHMENT.] The city of Wabasha may
9 establish a port authority commission that has the same powers
10 as a port authority established under section 469.049 or other
11 law. If the city establishes a port authority commission, the
12 city shall exercise all the powers relating to the port
13 authority granted to a city by sections 469.048 to 469.068 or
14 other law. Notwithstanding any law to the contrary, the city
15 may choose the name of the commission.

16 Subd. 2. [MUNICIPAL HOUSING AND REDEVELOPMENT
17 AUTHORITY.] If the city of Wabasha establishes a port authority
18 commission under subdivision 1, the commission may exercise the
19 same powers as a municipal housing and redevelopment authority
20 established under sections 469.001 to 469.047 or other law. The
21 city shall then exercise all the powers relating to the
22 municipal housing and redevelopment authority granted to a city
23 by sections 469.001 to 469.047 or other law.

24 [EFFECTIVE DATE.] This section is effective the day after
25 the governing body of the city of Wabasha and its chief clerical

02/23/05

[REVISOR] CMG/DD 05-2959

- 1 officer comply with Minnesota Statutes, section 645.021,
- 2 subdivisions 2 and 3.

An aerial photograph of a wide river, likely the St. Lawrence River, flowing through a densely forested area. A bridge is visible in the distance, crossing the river. The surrounding land is covered in trees, and there are some buildings and structures visible on the left bank. The overall scene is a natural, scenic view of a river valley.

The City of Wabasha

Request for Port Authority Designation

Senate File - 1275

House File - 1333

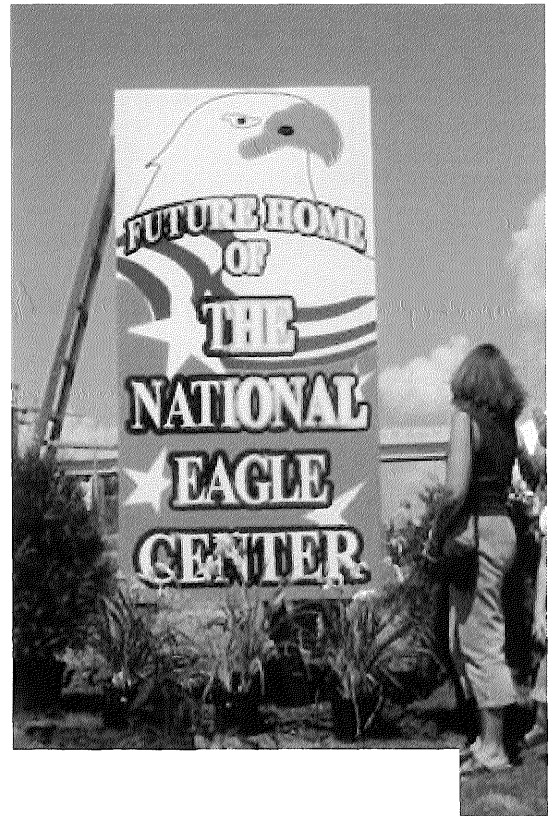
Senator Linda Higgins, Chair

State and Local Government Operations Committee

16 March 2005

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 - a. Senate File - 1275
2. Background
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4. Wabasha Economic Development Authority 2004 Work Plan - Port Authority



Port
Description

Wabasha Port Authority Commission

S.F. No. 1275, as introduced 84th Legislative Session (2005-2006) Posted on Feb 24, 2005

- 1.1 A bill for an act
1.2 relating to local government; permitting the city of
1.3 Wabasha to establish a port authority commission;
1.4 proposing coding for new law in Minnesota Statutes,
1.5 chapter 469.
1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:
1.7 Section 1. [469.0855] [WABASHA.]
1.8 Subdivision 1. [ESTABLISHMENT.] The city of Wabasha may
1.9 establish a port authority commission that has the same powers
1.10 as a port authority established under section 469.049 or other
1.11 law. If the city establishes a port authority commission, the
1.12 city shall exercise all the powers relating to the port
1.13 authority granted to a city by sections 469.048 to 469.068 or
1.14 other law. Notwithstanding any law to the contrary, the city
1.15 may choose the name of the commission.
1.16 Subd. 2. [MUNICIPAL HOUSING AND REDEVELOPMENT
1.17 AUTHORITY.] If the city of Wabasha establishes a port authority
1.18 commission under subdivision 1, the commission may exercise the
1.19 same powers as a municipal housing and redevelopment authority
1.20 established under sections 469.001 to 469.047 or other law. The
1.21 city shall then exercise all the powers relating to the
1.22 municipal housing and redevelopment authority granted to a city
1.23 by sections 469.001 to 469.047 or other law.
1.24 [EFFECTIVE DATE.] This section is effective the day after
1.25 the governing body of the city of Wabasha and its chief clerical
1.1 officer comply with Minnesota Statutes, section 645.021,
2.2 subdivisions 2 and 3.

- The Wabasha City Council and the Wabasha Economic Development Authority have spent the past two years evaluating the merits and consequences of Port Authority designation. Located on the banks of the Mississippi with US 61 running its length Wabasha is a community that understands the value of its heritage and is working diligently to preserve it.
- As with many “out-state” communities Wabasha continues to face the challenges of reduce school populations, increased governmental costs and reduced sources of aide. The City of Wabasha in 2001 received the first new Mayor in over twenty years and a number of new City Councilors dedicated to the survival of the schools and the enhancement of job opportunities. Understand the importance of self sufficiency the Wabasha City Council and Mayor began their exploration of other communities and their experiences with Port Authorities. The Wabasha Economic Development Authority conducted surveys on numerous communities in which they spoke with elected officials and staff as to their experiences with Port Authority designation.
- After the data collection The Mayor, Council President and Members of the Wabasha Economic Development Authority met with community leaders, residents and business persons to discuss the proposed request for Port Authority designation. The response was both favorable and supportive of the elected officials for their initiative in this area.
- It is with this background that we are before the Minnesota Senate for your consideration of our request for Port Authority designation. We respectfully request your consideration of this legislation.

Peter M. Klas

Mayor

City of Wabasha

City Council Meeting Minutes of 18 January 2005

Councilpersons:

First Ward: Gallenberger, Lineweaver

Second Ward: Beckmann, Carlson

Third Ward: Roemer, Meurer

Date: January 18, 2005

Mayor: Peter M. Klas

Clerk-Treas. Darlene Wallerich

City Adm: David Schmidt

City Atty: Peter Ekstrand

PROCEEDINGS OF THE CITY COUNCIL

The regular meeting of the City Council of the City of Wabasha was held on Tuesday, January 18, 2005 and was called to order by the Mayor, Peter Klas.

General Business 5.2 – Requested by Mayor and EDA

Wabasha EDA reviewed the process necessary to petition legislature to become a Port Authority and recommend the City Council submit legislation for the establishment of a Port Authority. If the petition to legislature were passed, Port Authority would replace the position of EDA. City Attorney, Peter Ekstrand gave a brief summary of a Port Authority stating this would be a separate entity and they would have more power than the existing EDA.

Beckmann and Lineweaver moved to approve the following that was prepared and submitted by the City of Wabasha TIF Attorney, Robert Deike and authorize the Mayor and City Administrator to sign any and all necessary documents for execution and implementation of a Port Authority: Adopted unanimously.

Wabasha Port Authority Legislation

Subdivision 1. Establishment. The City of Wabasha may establish a port authority commission that has the same powers as a port authority established under section 469.049 or other law. If the city establishes a port authority commission, the city shall exercise all the powers relating to the port authority granted to a city by sections 469.048 to 469.068 or other law. Notwithstanding any law to the contrary, the city may choose the name of the commission.

Subdivision 2. Municipal housing and redevelopment authority. If the City of Wabasha establishes a port authority commission under subdivision 1, the commission may exercise the same powers as a municipal housing and redevelopment authority established under sections 469.001 to 469.047 or other law. The city shall then exercise all the powers relating to the municipal housing and redevelopment authority granted to a city by sections 469.001 to 469.047 or other law.

EFFECTIVE DATED. Subdivision 1 and 2 are effective upon compliance with the provisions of Minnesota Statutes, section 645.021.

Wabasha Economic Development Authority 2004 Board Approved Workplan

2004 EDA Priorities

- *Place a high priority on updating Wabasha's Comprehensive Plan. By mid 2nd Qtr. complete an assessment of the current plan, make an initial determination of its current relevance, and develop an approved approach, selected participants and timeframe for completion of a new Comprehensive Plan.*
- ***Evaluate the pros and cons of transitioning EDA to become a Port Authority. At a minimum, initiate necessary steps to have EDA be authorized the full extent permitted by state statute to generate income for use in economic development projects.***
- *Work with the Wabasha SEMCRA/HRA to identify and procure a tract of land for affordable priced residential home development.*
- *Together with Wabasha Chamber, identify areas related to the Millbridge Project where the city will be responsible and develop a recommended approach that best meets the needs of downtown businesses.*
- *Research and seek out available resources to attract business and light industry to Wabasha. Select and implement most appropriate ones for Wabasha. For example: Positively Minnesota, Small Business Admin., JOBZ Program, etc.*
- *Develop a strategy and implement the plan to remedy Wabasha Business Park TIF District losses.*

February 10, 2004

1 Senator Higgins from the Committee on State and Local
2 Government Operations, to which was referred

3 S.F. No. 1275: A bill for an act relating to local
4 government; permitting the city of Wabasha to establish a port
5 authority commission; proposing coding for new law in Minnesota
6 Statutes, chapter 469.

7 Reports the same back with the recommendation that the bill
8 do pass. Report adopted.

9

10


.....
(Committee Chair)

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March 16, 2005
(Date of Committee recommendation)

Senators Murphy and Vickerman introduced--

S.F. No. 1272: Referred to the Committee on State and Local Government Operations.

1 A bill for an act
2 relating to state government; adding an ex officio
3 member to the Indian Affairs Council; amending
4 Minnesota Statutes 2004, section 3.922, subdivision 1.

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

6 Section 1. Minnesota Statutes 2004, section 3.922,
7 subdivision 1, is amended to read:

8 Subdivision 1. [CREATION, MEMBERSHIP.] The state Indian
9 Affairs Council is created to consist of the following ex
10 officio members:

11 the governor or a member of the governor's official staff
12 designated by the governor,

13 the commissioner of education,

14 the commissioner of human services,

15 the commissioner of natural resources,

16 the commissioner of human rights,

17 the commissioner of employment and economic development,

18 the commissioner of corrections,

19 the commissioner of the Minnesota Housing Finance Agency,

20 the commissioner of Iron Range resources and

21 rehabilitation,

22 the commissioner of health,

23 the commissioner of transportation,

24 each of whom may designate a staff member to serve instead, and

25 three members of the house of representatives appointed by

1 the speaker, and three members of the senate appointed by its
2 Subcommittee on Committees.

3 Voting members of the council are the elected tribal chair of:

4 the Fond du Lac Reservation Business Committee;

5 the Grand Portage Reservation Business Committee;

6 the Mille Lacs Reservation Business Committee;

7 the White Earth Reservation Business Committee;

8 the Bois Forte (Nett Lake) Reservation Business Committee;

9 the Leech Lake Reservation Business Committee;

10 the Red Lake Tribal Council;

11 the Upper Sioux board of trustees;

12 the Lower Sioux Tribal Council;

13 the Shakopee-Mdewankanton General Council;

14 the Prairie Island Tribal Council; and

15 two members to be selected under subdivision 2.

16 The chairs of the Indian committees, trusts, or councils may
17 designate in writing a member who has been elected at large to
18 an office in the committee, trust, or council, to serve
19 instead. Members appointed to represent the house of
20 representatives, the senate or tribal governments shall no
21 longer serve on the council when they are no longer members of
22 the bodies which they represent and their offices shall be
23 vacant. A member who is a designee of a tribal chair shall
24 cease to be a member at the end of the term of the designating
25 tribal chair. Ex officio members or their designees on the
26 council shall not vote.

1 Senator Higgins from the Committee on State and Local
2 Government Operations, to which was referred

3 S.F. No. 1272: A bill for an act relating to state
4 government; adding an ex officio member to the Indian Affairs
5 Council; amending Minnesota Statutes 2004, section 3.922,
6 subdivision 1.

7 Reports the same back with the recommendation that the bill
8 do pass. Report adopted.

9

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14

15


.....
(Committee Chair)

March 16, 2005.....
(Date of Committee recommendation)

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Senate

State of Minnesota

S.F. No. 1335 - State Construction Contracts

Author: Senator Richard Cohen

Prepared by: Thomas S. Bottern, Senate Counsel (651/296-3810) *TSB*

Date: March 15, 2005

Overview

This bill authorizes the Commissioner of Administration to use three new methods of contracting for state construction: (1) design-build; (2) construction manager at-risk; and (3) job order contracting. Each of these methods is subject to detailed conditions and limitations. The bill also authorizes the University of Minnesota to enter into design-build contracts.

Section 1. [Construction Plans and Specifications; Design-Build, Construction Manager At-Risk, or Job Order Contracting.] Provides new authority to the Commissioner of Administration to use design-build, construction manager at-risk, and job order contracting for state construction projects. Clarifies that a contract using any of these methods must not make the primary designer or construction manager a subcontractor or joint venture partner to the other or limit the independent obligations of the primary designer and construction manager to the commissioner. This section also authorizes Minnesota State Colleges and Universities (MnSCU) to use the new methods of contracting and to exercise them through its Board of Trustees.

Section 2. [Definitions.] Defines "design-build" to mean a contract between the commissioner and the design-builder in which the design-builder agrees to design and construct a project at a guaranteed maximum or fixed price.

Section 3. [Design-Build, Construction Manager At-Risk, and Job Order Contracting Contracts.]

Subdivision 1 [Definitions.] Provides definitions applicable to the new contracting authority created in this bill. "Commissioner," is defined to mean the Commissioner of Administration or the Board of Trustees of MnSCU, whichever controls the project.

Subdivision 2 [Authority.] Authorizes the Commissioner of Administration to award a design-build contract under either qualification-based or design- and price-based selection processes; to select a construction manager at-risk and award a guaranteed maximum price contract; and select a contractor by job order contracting. For the first two types of contracting, the commissioner is required to make specific written findings that this type of contracting is in the public interest.

This subdivision also provides that for projects funded with state general obligation bonds, there are percentage limits based on the number of total projects let by number in each fiscal year:

- For design-build contracts, no more than five percent of the total projects in fiscal years 2006 and 2007 and ten percent after that may use this method;
- For construction manager at-risk contracts, no more than five percent of the total number of contracts in fiscal years 2006 and 2007 and ten percent after that may use this method.

Requires projects to comply with the Capitol Area Architectural and Planning Board statutes if they are applicable.

Specifies that when the commissioner enters into a design-build or construction manager at-risk contract, soliciting requests for those methods does not obligate the commissioner to enter into that type of contract. The solicitations may be cancelled or responses rejected and a competitive bidding process used.

Section 4. [Design-Build.] Provides the limits on and procedures applicable to the design-build method of contracting for construction projects.

Subdivision 1. [Conflict of Interest.] Specifies that a member of the state Designer Selection Board (DSB) may not participate in any review or selection of a firm in which the member has a financial interest.

Subdivision 2. [Design Builder Licensing Requirements.] Specifies that the design-builder must employ, partner, or subcontract with persons who are appropriately licensed and registered to provide the services required to complete the project.

Subdivision 3. [Solicitation of Qualifications or Proposals.] Requires agencies who wish to use the design-build process to submit a written request to the Commissioner of Administration. The University of Minnesota is not required to submit a written request to the commissioner but must follow the procedures established in this section. The written

request must be provided to the state Designer Selection Board and must describe the project, the cost, and the description of any special requirements of the proposed project.

Paragraph (b) specifies the contents of the request for qualifications or proposals to solicit design-builders for both the design-build qualification-based and design-build price-based methods of contracting. The request must include a description of the project and the procedures for submitting qualifications for proposals.

Subdivision 4. [University of Minnesota Projects.] Allows the University of Minnesota to use the design-build method, which includes both the design-build qualification-based selection process or the design-build and price-based selection process. Provides that the Board of Regents will make the final choice among the proposals from the two highest scoring proposals forwarded to it. Limits the University's use of the design-build contracting method to no more than five percent of total projects let in fiscal years 2006 and 2007 and to ten percent in years following.

Subdivision 5. [Design-Build Qualification-Based Selection Process.] Provides the requirements for the design-build qualification-based selection process. This requires the Commissioner of Administration to establish procedures and criteria to evaluate design-builders and their qualifications. After the qualifications have been obtained from each design-builder, the DSB will select three to five proposals and then select the design-builder who scores highest on evaluation criteria. For MnSCU projects, the DSB will pick two design builders and the MnSCU Board will pick among them. The Commissioner or the MnSCU board will then negotiate the contract with the selected design-builder. If negotiations are not successful, the commissioner may request the board to make another selection.

Subdivision 6. [Acceptance by Commissioner.] Provides the requirements for a design-build qualification-based contract, including the development of design documents before project bidding; that the design-builder competitively bid all trade contract work; that mechanical or electrical subcontractor members of the design-builder team competitively bid subcontracted work; and that the design-builder and commissioner enter into a guaranteed maximum price contract.

Subdivision 7. [Design-Build and Price-Based Proposals.] Provides the requirements for the design-build and price-based process. The selection must be based on best value, which includes price and design and other criteria. Requires the commissioner to establish procedures and criteria used to evaluate design-builders. After the DSB has obtained and evaluated qualifications, it must select three proposers and then provide that list to the commissioner. The commissioner will then issue a request for proposals to the design-builders and put those proposals through a sealed bid process. The commissioner is required to award a stipend of not less than .3 percent of the estimated cost of design and construction of the project to each design-builder submitting a proposal who is not selected to complete the project.

Subdivision 8. [Design-Build and Price-Based Selection Process.] Requires the DSB to interview the three proposers selected under subdivision 7 and to select one proposal based on the criteria for the project. After a proposal is accepted, the commissioner and design-builder will enter into a fixed-price contract.

Section 5. [Construction Manager At-Risk.] Requires each agency to use the construction manager at-risk process to submit a written request for proposals to the commissioner.

Subdivision 2. [Selection Process.] Requires the commissioner to create a selection committee of at least three members who review proposals from construction managers at-risk and evaluate their qualifications. The selection committee must create a list of three to five proposals for the commissioner, who must then issue a request for proposal that requires fee expense and other information from managers on the list. The selection committee must then interview the construction managers and recommend the construction manager scoring highest on evaluation criteria to the commissioner.

Subdivision 3. [Contract.] Requires the commissioner to negotiate with the recommended construction manager at-risk. The designer selected by the DSB must develop design documents for approval by the commissioner. The construction manager at-risk must competitively bid all trade contract work from a list of qualified firms. Mechanical or electrical subcontractors may be listed as part of the construction manager team instead of being bid separately. The construction manager at-risk and the commissioner must enter into a guaranteed maximum price contract for the project.

Section 6. [Job Order Contracting.] Authorizes the commissioner to use job order contracting for projects with a cost that does not exceed \$250,000. The commissioner must issue a request for qualifications, including criteria that will be used for projects. The commissioner must review the responses and establish a list of responders who have the ability to enter into a master contract for projects.

Subdivision 4. [Construction Services Bidding.] Provides the number of bids the commissioner must solicit from master contract holders, depending on the size of the project: (1) for projects up to \$50,000, at least two bids; (2) for projects over \$50,000 and less than \$100,000, at least three bids; and (3) for projects over \$100,000 and less than \$250,000, at least four bids. This section requires the commissioner to select the contractor who submits the lowest price bid.

Subdivision 6. [Reasonable Distribution of Bid Requests Among Qualified Contractors.] Requires the commissioner to develop a system to ensure a reasonable opportunity for all qualified contractors to bid on construction services.

Section 7. [Effective Date.] Make the bill effective the day following final enactment.

TSB:vs

Senators Cohen, Robling, Langseth and Kiscaden introduced--

S.F. No. 1335: Referred to the Committee on State and Local Government Operations.

1 A bill for an act

2 relating to state government; regulating state
3 construction contracts; amending Minnesota Statutes
4 2004, sections 16B.31, subdivision 1; 16B.33,
5 subdivision 1; proposing coding for new law in
6 Minnesota Statutes, chapter 16C.

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

8 Section 1. Minnesota Statutes 2004, section 16B.31,
9 subdivision 1, is amended to read:

10 Subdivision 1. [CONSTRUCTION PLANS AND SPECIFICATIONS;
11 DESIGN-BUILD, CONSTRUCTION MANAGER AT RISK, OR JOB ORDER
12 CONTRACTING.] (a) The commissioner shall (1) have plans and
13 specifications prepared for the construction, alteration, or
14 enlargement of all state buildings, structures, and other
15 improvements except highways and bridges, and except for
16 buildings and structures under the control of the Board of
17 Regents of the University of Minnesota or of the Board of
18 Trustees of the Minnesota State Colleges and Universities; (2)
19 approve those plans and specifications; (3) advertise for bids
20 and award all contracts in connection with the improvements; (4)
21 supervise and inspect all work relating to the improvements; (5)
22 approve all lawful changes in plans and specifications after the
23 contract for an improvement is let; and (6) approve estimates
24 for payment. This subdivision does not apply to the
25 construction of the Zoological Gardens.

26 (b) MS 2002 (Expired)

1 (c) MS 2002 (Expired)

2 (b) Notwithstanding any other law to the contrary, the
3 commissioner may:

4 (1) use a design-build method of project delivery and award
5 a design-build contract as provided in sections 16C.32 and
6 16C.33;

7 (2) use a construction manager at risk method of project
8 delivery and award a construction manager at risk contract on
9 the basis of the selection criteria described in section 16C.34;

10 or

11 (3) use a job order contracting contractor selection as
12 described in section 16C.35.

13 (c) The commissioner may require a primary designer and a
14 construction manager at risk, by contract, to cooperate in the
15 design, planning and scheduling, and construction process. The
16 contract must not make the primary designer or construction
17 manager at risk a subcontractor or joint venture partner to the
18 other or limit the primary designer's or construction manager at
19 risk's independent obligations to the commissioner.

20 (d) For projects undertaken by the Minnesota State Colleges
21 and Universities system, the powers and duties granted in
22 paragraphs (b) and (c) may be exercised by its board of trustees.

23 (e) The commissioner, the board, the Board of Regents of
24 the University of Minnesota, and the Board of Trustees of the
25 Minnesota State Colleges and Universities shall create a panel
26 of representatives, including representatives of the
27 construction industry and the architecture and engineering
28 professions, to evaluate the use of design-build and the
29 procedures for design-builder selection under section 16C.31,
30 and shall report to the legislature on or before January 1,
31 2004, as to the success of design-build as a method of
32 construction and the need and desirability for any changes in
33 the selection procedure.

34 Sec. 2. Minnesota Statutes 2004, section 16B.33,
35 subdivision 1, is amended to read:

36 Subdivision 1. [DEFINITIONS.] As used in this section, the

1 following terms have the meanings given them:

2 (a) "Agency" has the meaning given in section 16B.01.

3 (b) "Architect" means an architect or landscape architect
4 registered to practice under sections 326.02 to 326.15.

5 (c) "Board" means the state Designer Selection Board.

6 (d) "Design-build" means the process of entering into and
7 managing a single contract between the commissioner and the
8 design-builder in which the design-builder agrees to both design
9 and construct a project as specified in the contract at a
10 guaranteed maximum or a fixed price.

11 (e) "Design-builder" means a person who proposes to design
12 and construct a project in accordance with the requirements of
13 section 16C.33.

14 (f) "Designer" means an architect or engineer, or a
15 partnership, association, or corporation comprised primarily of
16 architects or engineers or of both architects and engineers.

17 ~~(e)~~ (g) "Engineer" means an engineer registered to practice
18 under sections 326.02 to 326.15.

19 ~~(f)~~ (h) "Person" includes an individual, corporation,
20 partnership, association, or any other legal entity.

21 ~~(g)~~ (i) "Primary designer" means the designer who is to
22 have primary design responsibility for a project, and does not
23 include designers who are merely consulted by the user agency
24 and do not have substantial design responsibility, or designers
25 who will or may be employed or consulted by the primary designer.

26 ~~(h)~~ (j) "Project" means an undertaking to construct, erect,
27 or remodel a building by or for the state or an agency.

28 ~~(i)~~ (k) "User agency" means the agency undertaking a
29 specific project. For projects undertaken by the state of
30 Minnesota, "user agency" means the Department of Administration
31 or a state agency with an appropriate delegation to act on
32 behalf of the Department of Administration.

33 Sec. 3. [16C.32] [DESIGN-BUILD, CONSTRUCTION MANAGER AT
34 RISK, AND JOB ORDER CONTRACTING CONTRACTS.]

35 Subdivision 1. [DEFINITIONS.] As used in sections 16C.32
36 to 16C.35, the following terms have the meanings given them,

1 unless the context clearly indicates otherwise:

2 (1) "acceptance" means a formal resolution of the
3 commissioner authorizing the execution of a design-build,
4 construction manager at risk, or job order contracting contract;

5 (2) "agency" means any state officer, employee, board,
6 commission, authority, department, or other agency of the
7 executive branch of state government. Unless specifically
8 indicated otherwise, as used in sections 16C.32 to 16C.35,
9 agency also includes the Minnesota State Colleges and
10 Universities;

11 (3) "architect" means an architect or landscape architect
12 registered to practice under sections 326.02 to 326.15;

13 (4) "board" means the state Designer Selection Board;

14 (5) "Capitol Area Architectural and Planning Board" means
15 the board established to govern the capitol area under chapter
16 15B;

17 (6) "commissioner" means the commissioner of administration
18 or the Board of Trustees of the Minnesota State Colleges and
19 Universities, whichever controls a project;

20 (7) "construction manager at risk" means a person who is
21 selected by the commissioner to act as a construction manager to
22 manage the construction process, which includes, but is not
23 limited to, responsibility for the price, schedule, and
24 workmanship of the construction performed in accordance with the
25 procedures of section 16C.34;

26 (8) "construction manager at risk contract" means a
27 contract for construction of a project between a construction
28 manager and the commissioner, which contract shall include a
29 guaranteed maximum price, construction schedule, and workmanship
30 of the construction performed;

31 (9) "design-build contract" means a contract between the
32 commissioner and a design-builder to furnish the architectural,
33 engineering, and related design services as well as the labor,
34 materials, supplies, equipment, and construction services for a
35 project;

36 (10) "design and price-based proposal" means the proposal

1 to be submitted by a design-builder in the design and
2 price-based selection process, as described in section 16C.33,
3 which proposal meets the requirements of section 16C.33,
4 subdivision 7, paragraph (c), in such detail as required in the
5 request for proposals;

6 (11) "design and price-based selection" means the selection
7 of a design-builder as described in section 16C.33, subdivision
8 8;

9 (12) "design criteria package" means performance criteria
10 prepared by a design criteria professional who shall be either
11 an employee of the commissioner or shall be selected in
12 compliance with section 16B.33, 16C.08, or 16C.095;

13 (13) "design criteria professional" means a person licensed
14 under chapter 326, or a person who employs an individual or
15 individuals licensed under chapter 326, required to design a
16 project, and who is employed by or under contract to the
17 commissioner to provide professional, architectural, or
18 engineering services in connection with the preparation of the
19 design criteria package;

20 (14) "guaranteed maximum price" means the maximum amount
21 that a design-builder, construction manager at risk, or
22 subcontractor will be paid pursuant to a contract to perform a
23 defined scope of work;

24 (15) "guaranteed maximum price contract" means a contract
25 under which a design-builder, construction manager, or
26 subcontractor is paid on the basis of their actual cost to
27 perform the work specified in the contract plus an amount for
28 overhead and profit, the sum of which must not exceed the
29 guaranteed maximum price set forth in the contract;

30 (16) "job order contracting" means a project delivery
31 method that requests a limited number of bids from a list of
32 qualified contractors, selected from a registry of qualified
33 contractors who have been prescreened and who have entered into
34 master contracts with the commissioner, as provided in section
35 16C.35;

36 (17) "past performance" or "experience" does not include

1 the exercise or assertion of a person's legal rights;

2 (18) "person" includes an individual, corporation,
3 partnership, association, or any other legal entity;

4 (19) "project" means an undertaking to construct, alter, or
5 enlarge a building, structure, or other improvements, except
6 highways and bridges, by or for the state or an agency;

7 (20) "qualifications-based selection" means the selection
8 of a design-builder as provided in section 16C.33;

9 (21) "request for qualifications" means the document or
10 publication soliciting qualifications for a design-build,
11 construction manager at risk, or job order contracting contract
12 as provided in sections 16C.33 to 16C.35;

13 (22) "request for proposals" means the document or
14 publication soliciting proposals for a design-build or
15 construction manager at risk contract as provided in sections
16 16C.33 and 16C.34; and

17 (23) "trade contract work" means the furnishing of labor,
18 materials, or equipment by contractors or vendors that are
19 incorporated into the completed project. Work performed by
20 trade contractors involves specific portions of the project, but
21 not the entire project.

22 Subd. 2. [AUTHORITY.] (a) Subject to limitations in
23 sections 16B.31, subdivision 1; 16B.33, subdivision 1; and
24 16C.32 to 16C.34, and notwithstanding any other law to the
25 contrary, the commissioner may:

26 (1) solicit and award a design-build contract on the basis
27 of either a qualifications based or a design and price-based
28 selection process provided in section 16C.33 if the conditions
29 in clause (4) are met;

30 (2) select a construction manager at risk as provided in
31 section 16C.34, and award a guaranteed maximum price contract
32 for a construction manager at risk if the conditions of clause
33 (5) are met;

34 (3) select a contractor by a job order contracting delivery
35 method as provided in section 16C.35;

36 (4) the commissioner may not utilize design-build contracts

1 for more than five percent of its total projects let, by number,
2 in each of the fiscal years 2006 and 2007, and ten percent of
3 its total projects let, by number, in each fiscal year
4 thereafter, that are funded in whole or in part with proceeds
5 from the sale of state general obligation bonds; and

6 (5) the commissioner may not utilize construction manager
7 at risk contracts for more than five percent of its total
8 projects let, by number, in each of the fiscal years 2006 and
9 2007, and ten percent of its total projects let, by number, in
10 each fiscal year thereafter, that are funded in whole or in part
11 with proceeds from the sale of state general obligation bonds.

12 (b) Pursuant to section 16B.31, subdivision 4, if the
13 project is within the Capitol area, the project shall comply
14 with sections 15B.03, subdivision 3; 15B.08, subdivision 2;
15 15B.10; and 15B.15, subdivision 4.

16 (c) The commissioner shall, for each design-build or
17 construction manager at risk contract, make a written
18 determination, including specific findings, indicating whether
19 use of the design-build or construction manager at risk
20 procurement serves the public interest.

21 (d) The solicitation of requests for qualifications or
22 proposals does not obligate the commissioner to enter into a
23 design-build or construction manager at risk contract. In
24 accordance with the stated criteria and subcriteria for
25 evaluating qualifications or proposals, the commissioner may
26 accept or reject any or all responses received as a result of
27 the request. The solicitation for qualifications or proposals
28 may be canceled at any time in the commissioner's sole
29 discretion if it is considered to be in the public's best
30 interest. If the commissioner rejects all responses or cancels
31 the solicitation for proposals, the commissioner may resolicit a
32 request for qualifications or proposals using the same or
33 different requirements or request selection of a primary
34 designer pursuant to section 16B.33, 16C.08, or 16C.095 and
35 proceed with competitive bidding pursuant to sections 16C.25 to
36 16C.29.

1 Sec. 4. [16C.33] [DESIGN-BUILD.]

2 Subdivision 1. [CONFLICT OF INTEREST.] A board member may
3 not participate in the review, discussion, or selection of a
4 primary designer, a design-builder, or a firm in which the
5 member has a financial interest.

6 Subd. 2. [DESIGN BUILDER LICENSING REQUIREMENTS.] (a) Each
7 design-builder must be, employ, or have as a partner, member,
8 coventurer, or subcontractor, persons duly licensed and
9 registered to provide the services required to complete the
10 project and do business in this state.

11 (b) A design-builder may contract with the commissioner to
12 provide professional or construction services for which the
13 design-builder is not itself licensed, registered, or qualified
14 to perform, so long as the design-builder provides such services
15 through subcontracts with duly licensed, registered, or
16 otherwise qualified persons in accordance with this section.

17 (c) Nothing in this section or section 16C.32 is intended
18 to limit or eliminate the responsibility or liability owed by an
19 architect or engineer on a design-build project to the
20 commissioner and third parties under existing law. The design
21 service portion of a design-build contract is considered a
22 service and not a product.

23 Subd. 3. [SOLICITATION OF QUALIFICATIONS OR PROPOSALS.] (a)
24 Every user agency, except the Capitol Area Architectural and
25 Planning Board, shall submit a written request for a
26 design-builder for its project to the commissioner who shall
27 forward the request to the board. The University of Minnesota
28 shall follow the process in subdivision 4 to select
29 design-builders for projects that are subject to section
30 16B.33. The written request must include a description of the
31 project, the total project cost, a description of any special
32 requirements or unique features of the proposed project, and
33 other information requested by the board which will assist the
34 board in carrying out its duties and responsibilities set forth
35 in this section.

36 (b) A request for qualifications or proposals soliciting

1 design-builders shall be prepared for each design-build contract
2 pursuant to subdivision 5 or 7. The request for qualifications
3 or proposals shall contain, at a minimum, the following elements:

4 (1) the identity of the agency for which the project will
5 be built and that will award the design-build contract;

6 (2) procedures for submitting qualifications or proposals,
7 the criteria for evaluation of qualifications or proposals and
8 the relative weight for each criterion and subcriterion, and the
9 procedures for making awards according to the stated criteria
10 and subcriteria, including a reference to the requirements of
11 this section;

12 (3) the proposed terms and conditions for the contract;

13 (4) the desired qualifications of the design-builder and
14 the desired or permitted areas of construction to be performed
15 by named members of the design-build team, if applicable. The
16 primary designer shall be a named member of the design-build
17 team;

18 (5) the schedule for commencement and completion of the
19 project;

20 (6) any applicable budget limits for the project;

21 (7) the requirements for insurance and statutorily required
22 performance and payment bonds;

23 (8) the identification and location of any other
24 information in the possession or control of the agency that the
25 user agency determines is material, which may include surveys,
26 soils reports, drawings or models of existing structures,
27 environmental studies, photographs, or references to public
28 records;

29 (9) for a design-build design and price-based selection
30 process, the request shall also include the design criteria
31 package, including the performance and technical requirements
32 for the project, and the functional and operational elements for
33 the delivery of the completed project. The request shall also
34 contain a description of the drawings, specifications, or other
35 submittals to be included with the proposal, with guidance as to
36 the form and level of completeness of the drawings,

1 specifications or submittals that will be acceptable, and the
2 stipend to be paid to the design-builders selected to submit the
3 above described information; and

4 (10) the criteria shall not impose unnecessary conditions
5 beyond reasonable requirements to ensure maximum participation
6 of qualified design-builders.

7 (c) Notice of requests for qualifications or proposals must
8 be advertised in the State Register and in the same manner in
9 which primary designers are solicited under subdivision 5.

10 Subd. 4. [UNIVERSITY OF MINNESOTA PROJECTS.] (a) The
11 University of Minnesota may elect to use the design-build method
12 of project delivery for projects involving construction or major
13 remodeling, as defined in section 16B.335, subdivision 1, with
14 an estimated cost greater than \$2,000,000, in which case the
15 University of Minnesota shall submit a written request for a
16 design-builder to the commissioner, who shall forward the
17 request to the board, as provided in subdivision 3. For
18 design-build projects undertaken by the University of Minnesota
19 under this subdivision, the Board of Regents shall exercise the
20 powers and duties of the commissioner granted in subdivisions 5,
21 6, 7, and 8.

22 (b) When the University of Minnesota undertakes any other
23 project involving construction, renovation, repair, replacement,
24 or rehabilitation, the Board of Regents may, in addition to any
25 other method of project delivery available to the University of
26 Minnesota, submit a written request for a design-builder to the
27 commissioner, who shall forward the request to the board, as
28 provided in subdivision 3.

29 (c) For projects for which the University of Minnesota
30 requests a design-builder, the University of Minnesota may use
31 either the design-build qualification-based selection process
32 under subdivision 5 or the design-build design and price-based
33 selection process under subdivision 7. The board shall score
34 proposals in accordance with subdivision 5 or 7, as applicable,
35 and narrow the selection to the two highest scoring proposers
36 for recommendation to the Board of Regents. The Board of

1 Regents shall make the final selection and shall notify the
2 board of the selection. Meeting records or written evaluations
3 that document the final selection are public records.

4 (d) The University of Minnesota may not utilize
5 design-build contracts for more than five percent of its total
6 projects let, by number, in each of the fiscal years 2006 and
7 2007, and ten percent of its total projects let, by number, in
8 each fiscal year thereafter, that are funded in whole or in part
9 with proceeds from the sale of state general obligation bonds.

10 Subd. 5. [DESIGN-BUILD QUALIFICATION-BASED SELECTION
11 PROCESS.] In a design-build qualification-based selection
12 process, the following shall apply:

13 (a)(1) the commissioner shall establish procedures for
14 determining the appropriate content of each request for
15 qualifications, the weighted criteria and subcriteria to be used
16 to evaluate the design-builders, and the procedures for
17 evaluating qualifications in an open, competitive, and objective
18 manner; (2) the criteria and subcriteria shall include, but are
19 not limited to, the proposer's experience, including capacity of
20 key personnel, technical competence, capability to perform, the
21 past performance of the proposer and its employees as a
22 constructor or primary designer, including its safety record and
23 compliance with state and federal law; and (3) the commissioner
24 shall issue a request for qualifications that includes the
25 information as described in subdivision 3.

26 (b) After obtaining and evaluating qualifications from each
27 design-builder, in accordance with the weighted criteria and
28 subcriteria and procedures set forth in the request for
29 qualifications, the board shall select a short list of at least
30 three and no more than five proposals. The board must receive
31 at least three proposals from design-builders or the
32 commissioner shall either:

33 (1) solicit new proposals;

34 (2) revise the request qualifications and thereafter
35 solicit new proposals using the revised request for
36 qualifications; or

1 (3) request selection of a primary designer pursuant to
2 section 16B.33, 16C.08, or 16C.095 and proceed with competitive
3 bidding pursuant to sections 16C.25 to 16C.29.

4 (c) The board shall conduct formal interviews with the
5 short list of proposers, but shall not disclose any proprietary
6 or confidential information contained in one proposal to another
7 proposer.

8 (d) The board shall select the design-builder that scores
9 the highest on the evaluation criteria and subcriteria. The
10 commissioner shall make the award to the design-builder who
11 scores the highest score pursuant to the weighted criteria and
12 subcriteria as determined by the board, unless the commissioner
13 rejects all proposals or proceeds pursuant to paragraphs (f) and
14 (g). In the case of the Minnesota State Colleges and
15 Universities, the board shall narrow the selection to the two
16 design-builders that score the highest on the evaluation
17 criteria and subcriteria for recommendation to the respective
18 commissioner, and the commissioner shall make the final
19 selection and shall notify the board of the selection.

20 (e) The commissioner shall conduct fee and contract
21 negotiations with the selected design-builder and shall enter
22 into the contract consistent with subdivision 6.

23 (f) If the selected design-builder declines the appointment
24 or is unable to reach agreement with the commissioner on the
25 terms of the contract, the commissioner may, within 60 days
26 after the first selection, request the board to make another
27 selection.

28 (g) If the board fails to make a selection and forward its
29 recommendation to the commissioner within 60 days of the request
30 for a second selection, the commissioner may appoint a
31 design-builder without the recommendation of the board.

32 (h) If a project for which a design-builder has been
33 selected by the board becomes inactive, lapses, or changes as
34 the result of a project phasing, insufficient appropriations, or
35 other reasons, the commissioner may, if the project is
36 reactivated, retain the same design-builder to complete the

1 project.

2 Subd. 6. [DESIGN-BUILD QUALIFICATIONS-BASED ACCEPTANCE BY
3 COMMISSIONER.] The contract between the commissioner and the
4 design-builder selected under subdivision 5 shall require the
5 following:

6 (a) The design-builder shall develop design documents of
7 the project for review and approval by the commissioner prior to
8 project bidding.

9 (b) The design-builder shall competitively bid all trade
10 contract work for the project from a list of qualified firms,
11 subject to availability of such qualified firms for the specific
12 work. The list of qualified firms shall be based upon an open,
13 competitive, and objective prequalification process in which the
14 selection criteria includes, in addition to the proposed price,
15 the firm's experience, including capacity of key personnel,
16 technical competence, capability to perform, the past
17 performance of the firm and its employees, including its safety
18 record and compliance with state and federal law, and other
19 considerations as defined by the design-builder and the
20 commissioner. The design-builder and the commissioner shall
21 jointly determine the composition of the list of qualified firms.

22 (c) A named mechanical or electrical subcontractor member
23 of a design-builder's team shall competitively bid all
24 subcontracted portions of the mechanical or electrical
25 subcontractor's work, and all material purchases from a list of
26 qualified firms. Such qualified firms shall be determined as
27 described in paragraph (b). With the approval of the
28 commissioner, the design-builder may name either or both a
29 mechanical and electrical subcontractor or subcontractors as a
30 named member of the design-builder's team, and if either or both
31 a mechanical and electrical subcontractor or subcontractors is
32 so named, the design-builder is not required to competitively
33 bid the mechanical or electrical trade contract work.

34 (d) With the commissioner's approval or request, team
35 members of the design-builder, including the design-builder, may
36 also submit bids for trade contract work.

1 (e) Either or both the mechanical or electrical
2 subcontractor or subcontractors who are named subcontractor
3 members of the design-builder's team shall enter into guaranteed
4 maximum price contracts with the design-builder.

5 (f) The design-builder and the commissioner shall enter
6 into a guaranteed maximum price contract.

7 Subd. 7. [DESIGN-BUILD AND PRICE-BASED PROPOSALS.] (a) In
8 a design and price-based selection process the following shall
9 apply:

10 (1) selection must be based on best value, which includes
11 an evaluation of price and design, and may include other
12 criteria including, but not limited to, the proposer's
13 experience as a constructor or primary designer;

14 (2) the commissioner shall establish procedures for
15 determining the appropriate content of each request for
16 qualifications, and the weighted criteria and subcriteria to be
17 used to evaluate the design-builders including, but not limited
18 to, the proposer's experience, including capacity of key
19 personnel, technical competence, capability to perform, the past
20 performance of the proposer and its employees, including its
21 safety record and compliance with state and federal law, quality
22 and past performance, and the procedures for evaluating
23 qualifications in an open, competitive, and objective manner;
24 and

25 (3) the commissioner shall issue a request for
26 qualifications that includes the information as described in
27 subdivision 3.

28 (b) After obtaining and evaluating qualifications from each
29 design-builder, in accordance with the weighted criteria and
30 subcriteria and procedures set forth in the request for
31 qualifications, the board shall select a short list of three
32 proposers. The board must receive at least three proposals from
33 design-builders or the commissioner shall either:

34 (1) solicit new proposals;

35 (2) revise the request for qualifications and thereafter
36 solicit new proposals using the revised request for

1 qualifications; or

2 (3) request selection of a primary designer pursuant to
3 section 16B.33, 16C.08, or 16C.095 and proceed with competitive
4 bidding pursuant to sections 16C.25 to 16C.29.

5 (c) The commissioner shall issue a request for proposals to
6 the selected design-builders. The submitted proposals shall
7 consist of, at a minimum, the following elements:

8 (1) preliminary plans and specifications and other
9 information in sufficient detail to describe the character,
10 quality, and scope of the project;

11 (2) a design and construction critical path schedule;

12 (3) the price at which the design-builder will complete all
13 design and construction requested in the proposal for the
14 project if selected; and

15 (4) other materials the board determines are necessary to
16 fix the design, schedule, and cost of the project.

17 (d) Proposals must be sealed and may not be opened until
18 the expiration of the time established for making proposals as
19 set forth in the request for proposals.

20 (e) Proposals must identify the primary designer and the
21 primary construction contracting entity that are members of the
22 design-builders team.

23 (f) The amount and type of design services requested by the
24 board shall not be exceeded by those submitting proposals.
25 Proposals exceeding the amount and type of design services
26 requested by the board may be rejected by the board. Unless
27 compensated in excess of the minimum stipend for their effort,
28 design-builders must not be required to submit detailed
29 architectural or engineering design or construction documents as
30 part of the proposal.

31 (g) Except as described in paragraph (h), the commissioner
32 shall award to each design-builder that submits a responsive
33 design-build proposal under this section, a stipend in an amount
34 of not less than 0.3 percent of the commissioner's estimated
35 cost of design and construction. If the request for proposals
36 requires extensive design services beyond preliminary plans and

1 specifications as requested as part of the proposal, the stipend
2 shall be adjusted to an amount commensurate with the amount of
3 design services requested for each proposal.

4 (h) No stipend shall be awarded to the design-builder
5 selected to complete the project.

6 (i) For projects where the design-builder accepts the
7 stipend offered by the board, the commissioner shall be deemed
8 the owner of the design, subject to the rights of the proposer
9 to such design for publication and use in other projects.
10 However, the use of the design in its totality, or near
11 totality, by the commissioner is prohibited.

12 (j) The commissioner may require each design-builder to
13 submit with its proposal a cash deposit, letter of credit in a
14 form acceptable to the commissioner, or bid bond not to exceed
15 five percent of the maximum cost of the design-builder's
16 proposal. If the proposal is accepted but the design-builder
17 fails, without good cause to execute the design-build contract,
18 the deposit or bond is forfeited in an amount not to exceed the
19 difference between the proposal in question and the next highest
20 proposal.

21 Subd. 8. [DESIGN-BUILD AND PRICE-BASED SELECTION
22 PROCESS.] (a) The board shall review submissions as described in
23 subdivision 7; conduct formal interviews with all three
24 proposers but not allow the disclosure of any price,
25 proprietary, or confidential information contained in one
26 proposal to another proposer; and select the proposal that
27 scores the highest based on the weighted evaluation criteria and
28 subcriteria, except for projects under the control of Minnesota
29 State Colleges and Universities. The commissioner shall make
30 the award to the design-builder who scores the highest score
31 pursuant to the weighted criteria and subcriteria as determined
32 by the board, unless the commissioner rejects all proposals or
33 proceeds pursuant to paragraph (c) or (d). For Minnesota State
34 Colleges and Universities projects, the board shall narrow the
35 selection to the two highest scoring proposers for
36 recommendation to the commissioner, and the commissioner shall

1 review the submissions as described in subdivision 7; conduct
2 formal interviews with both proposers recommended by the board,
3 but not allow the disclosure of any price, proprietary, or
4 confidential information contained in one proposal to another
5 proposer; and select the proposal that scores the highest based
6 on the commissioner's application of the weighted evaluation
7 criteria and subcriteria; and shall notify the board of the
8 selection.

9 (b) After a proposal is accepted, the commissioner is
10 deemed the owner of the design, subject to the rights of the
11 proposer to such design for publication and use in other
12 projects.

13 (c) After a proposal is accepted, the commissioner and the
14 design-builder shall enter into a fixed-price contract.

15 (d) If the design-builder selected for a project declines
16 the appointment or is unable to reach agreement with the
17 commissioner concerning the fee or the terms of the contract,
18 the commissioner may, within 60 days after the first selection,
19 request the board to make another selection.

20 (e) If the design-builder selected for a project, prior to
21 reaching an executed design-build contract, replaces either the
22 primary designer or the primary construction contracting entity,
23 the commissioner shall notify the board of the replacement and
24 request the board to either approve the new design-builder or to
25 select another design-builder.

26 (f) If the board fails to make a second selection as
27 described in paragraph (d) or (e) and forward its recommendation
28 to the commissioner within 60 days of the commissioner's request
29 for a second selection, the commissioner may appoint a
30 design-builder to the project without the recommendation of the
31 board.

32 Sec. 5. [16C.34] [CONSTRUCTION MANAGER AT RISK.]

33 Subdivision 1. [SOLICITATION OF QUALIFICATIONS.] (a) Every
34 user agency, except the Capitol Area Architectural and Planning
35 Board, shall submit a written request for proposals for a
36 construction manager at risk for its project to the

1 commissioner. The written request for proposals must include a
2 description of the project, the estimated cost of completing the
3 project, a description of any special requirements or unique
4 features of the proposed project, and other information which
5 will assist the commissioner in carrying out its duties and
6 responsibilities set forth in this section.

7 (b) A request for qualifications shall be prepared for each
8 construction manager at risk contract as provided in this
9 section. The request for qualifications shall contain, at a
10 minimum, the following elements:

11 (1) the identity of the agency for which the project will
12 be built and that will award the construction manager at risk
13 contract;

14 (2) procedures for submitting qualifications, the criteria
15 and subcriteria for evaluation of qualifications and the
16 relative weight for each criteria and subcriteria, and the
17 procedures for making awards in an open, competitive, and
18 objective manner, and according to the stated criteria and
19 subcriteria, including a reference to the requirements of this
20 section;

21 (3) the terms and conditions for the contract;

22 (4) the qualifications that the construction manager at
23 risk shall be desired to have;

24 (5) the desired or permitted areas of construction to be
25 performed by either or both the named mechanical and electrical
26 subcontractor or subcontractors to the construction manager at
27 risk, if applicable;

28 (6) a schedule for commencement and completion of the
29 project;

30 (7) any applicable budget limits for the project;

31 (8) requirements for insurance, statutorily required
32 performance and payment bonds; and

33 (9) identification and location of any other information in
34 the possession or control of the agency that the user agency
35 determines is material, which may include surveys, soils
36 reports, drawings or models of existing structures,

1 environmental studies, photographs, or references to public
2 records.

3 (b) Notice of requests for qualifications must be
4 advertised in the State Register and in the same manner in which
5 primary designers are solicited under section 16B.33,
6 subdivision 4.

7 Subd. 2. [CONSTRUCTION MANAGER AT RISK SELECTION PROCESS.]
8 In a construction manager at risk selection process, the
9 following shall apply:

10 (a)(i) Upon receipt of a written request from a user agency
11 for a construction manager at risk for its project, the
12 commissioner shall create a selection committee composed of a
13 minimum of three persons, at least one of whom has construction
14 industry expertise; (ii) the selection committee shall establish
15 procedures for determining the appropriate content of each
16 request for qualifications, the weighted criteria and
17 subcriteria to be used to score the proposals of the
18 construction managers at risk, and shall establish procedures
19 for evaluating qualifications in an open, competitive, and
20 objective manner; and (iii) the commissioner shall issue a
21 request for qualifications that includes the information as
22 described in subdivision 1.

23 (b) In accordance with the criteria and procedures set
24 forth in the request for qualifications, the selection committee
25 shall evaluate the construction manager at risk's experience,
26 including capacity of key personnel, technical competence,
27 capability to perform, the past performance of the construction
28 manager at risk and its employees as a constructor, including
29 its safety record and compliance with state and federal law, and
30 other appropriate facts submitted by the construction manager at
31 risk in response to the request for qualifications. The
32 commissioner must receive at least three proposals from
33 construction managers or the commissioner may either (i) solicit
34 new proposals; (ii) request the selection committee to revise
35 the request for qualifications and thereafter solicit new
36 proposals using the revised request for qualifications; (iii)

1 select another allowed procurement method; or (iv) reject all
2 proposals.

3 (c)(i) The selection committee shall review the proposers'
4 qualifications and create a short list of three to five
5 proposals of construction managers at risk; (ii) the
6 commissioner shall issue a request for proposal requiring fee
7 and expense proposals and other information as desired from the
8 short-listed construction managers at risk, which request shall
9 also include the fee and expense proposals from any named
10 mechanical or electrical subcontractors or mechanical and
11 electrical subcontractor member of the construction manager at
12 risk's team; (iii) the selection committee shall conduct formal
13 interviews with the short-listed construction managers at risk
14 but shall not disclose any proprietary or confidential
15 information contained in one proposal to another proposer; (iv)
16 the selection committee shall recommend the construction manager
17 at risk achieving the highest score on the evaluation criteria
18 as described in subdivision 1, paragraph (b).

19 (d) If the project is within the Capitol area, the Capitol
20 Area Architecture and Planning Board shall participate in the
21 evaluation processes.

22 Subd. 3. [CONSTRUCTION MANAGER AT RISK CONTRACT.] (a) The
23 commissioner shall conduct contract negotiations with the
24 recommended construction manager at risk.

25 (b) If the construction manager at risk selected for the
26 project declines the appointment or is unable to reach agreement
27 with the commissioner concerning the fee or terms of the
28 contract, the commissioner shall, within 60 days after the first
29 selection, request the selection committee to make another
30 recommendation.

31 (c) If the selection committee fails to make a second
32 recommendation and forward it to the commissioner within 60 days
33 of the commissioner's request for a second recommendation, the
34 commissioner may select a construction manager at risk without
35 the recommendation of the selection committee.

36 (d) The primary designer(s) selected by the board shall

1 develop various design documents for review and approval by the
2 commissioner.

3 (e) The construction manager at risk shall competitively
4 bid all trade contract work for the project from a list of
5 qualified firms, subject to availability of such qualified firms
6 for the specific work. The list of qualified firms shall be
7 based upon an open, competitive, and objective prequalification
8 process in which the selection criteria includes, in addition to
9 the proposed price, the firm's experience, including capacity of
10 key personnel, technical competence, capability to perform, the
11 past performance of the firm and its employees, including its
12 safety record and compliance with state and federal law, and
13 other considerations as defined by the construction manager at
14 risk and the commissioner. The construction manager at risk and
15 the commissioner shall jointly determine the composition of the
16 list of qualified firms. With the approval of the commissioner,
17 the construction manager at risk proposal may name either or
18 both a mechanical or electrical subcontractor or subcontractors
19 as a named member of the construction manager at risk team, and,
20 except as described above, if either or both a mechanical or
21 electrical subcontractors or subcontractor is so named, the
22 construction manager at risk is not required to competitively
23 bid the mechanical or electrical trade contract work. With the
24 commissioner's approval or request, the team members of the
25 construction manager at risk, including the construction manager
26 at risk, may also submit bids for trade contract work. A named
27 mechanical or electrical subcontractor member of a construction
28 manager at risk's team shall competitively bid all trade
29 contract, all subcontracted portions of the mechanical or
30 electrical subcontractor's work, and all material purchases for
31 the project from a list of qualified firms. Such qualified
32 firms must be determined as described in this paragraph.

33 (f) The named mechanical or electrical or mechanical and
34 electrical subcontractor members of the construction manager's
35 team shall enter into guaranteed maximum price contracts with
36 the construction manager for the work identified in the

1 construction manager at risk proposal as work to be performed by
2 the named subcontractors.

3 (g) The construction manager at risk and the commissioner
4 shall enter into a guaranteed maximum price contract for the
5 project.

6 Sec. 6. [16C.35] [JOB ORDER CONTRACTING.]

7 Subdivision 1. [AUTHORITY.] The commissioner may undertake
8 construction utilizing job order contracting for projects that
9 do not exceed a construction cost of \$250,000.

10 Subd. 2. [JOB ORDER CONTRACTING PRESELECTION PROCESS.] (a)
11 The commissioner is authorized to issue a request for
12 qualifications that includes the criteria that will be used for
13 the projects, provided that these criteria do not unduly
14 restrict competition.

15 (b) The request for qualifications must be publicized in a
16 manner designated by the commissioner. To the extent practical,
17 this must include posting on a state Web site.

18 (c) Contractors shall submit only qualifications to the
19 commissioner that are responsive to the request for
20 qualifications.

21 Subd. 3. [QUALIFIED CONTRACTORS.] (a) The commissioner
22 shall review the responses to the request for qualifications and
23 determine responder's ability to enter into the master contract
24 that will be utilized for the projects. The commissioner shall
25 establish a list of qualified contractors based on the
26 proposers' ability to enter into a master contract as described
27 in the request for qualifications.

28 (b) The commissioner shall enter into master contracts with
29 all qualified contractors.

30 Subd. 4. [CONSTRUCTION SERVICES BIDDING.] The commissioner
31 shall request bids for construction services for any project
32 using job order contracting from qualified contractors as
33 follows:

34 (1) for construction projects up to a maximum cost of
35 \$50,000, the commissioner shall request a minimum of two bids;

36 (2) for construction projects with a cost greater than

1 \$50,000 but less than or equal to \$100,000 the commissioner
2 shall request a minimum of three bids;

3 (3) for construction projects with a cost greater than
4 \$100,000 but less than or equal to \$250,000, the commissioner
5 shall request a minimum of four bids.

6 Subd. 5. [QUALIFIED CONTRACTOR SELECTION.] The
7 commissioner shall select the contractor who submits the lowest
8 price bid for the construction services proposed.

9 Subd. 6. [REASONABLE DISTRIBUTION OF BID REQUESTS AMONG
10 QUALIFIED CONTRACTORS.] The commissioner in requesting bidding
11 for projects using job order contracting as described in this
12 section shall develop a system to ensure a reasonable
13 opportunity for all qualified contractors to bid on construction
14 services on a periodic basis.

15 Sec. 7. [EFFECTIVE DATE.]

16 Sections 1 to 6 are effective the day following final
17 enactment.

1 Senator moves to amend S.F. No. 1335 as follows:

2 Page 4, line 13, before the semicolon, insert ", unless the
3 estimated cost of the project is ^{lesser} ~~greater~~ than \$2,000,000, in
4 which case the commissioner may act as the board"

5 Page 6, line 23, before "and" insert "16C.16;"

6 Page 8, line 8, after "persons" insert "or a firm with
7 persons who are"

8 Page 8, line 27, before the period, insert ", consistent
9 with section 16B.33, subdivision 3a"

10 Page 9, line 29, delete "design"

11 Page 10, line 8, delete everything after "Register"

12 Page 10, line 9, delete everything before the period

13 Page 10, lines 16 and 27, after "commissioner" insert "of
14 administration"

15 Page 11, line 19, after "experience" insert "as a
16 constructor or primary designer"

17 Page 11, lines 21 and 22, delete "as a constructor or
18 primary designer"

19 Page 11, line 34, after "request" insert "for"

20 Page 13, line 15, after "experience" insert "as a
21 constructor or primary designer"

22 Page 13, line 22, delete everything after "(c)"

23 Page 13, delete lines 23 to 26

24 Page 13, line 27, delete everything before "With"

25 Page 13, line 33, after the period, insert "A named
26 mechanical or electrical subcontractor member of a
27 design-builder's team shall competitively bid all subcontracted
28 portions of the mechanical or electrical subcontractor's work
29 from a list of qualified firms. Such qualified firms shall be
30 determined as described in paragraph (b). The commissioner and
31 the design-builder shall agree to a list of materials and
32 equipment that shall be competitively bid."

33 Page 14, line 18, after "experience" insert "as a
34 constructor or primary designer"

35 Page 15, line 33, delete "section" and insert "subdivision"

36 Page 17, line 17, delete "fee or the"

- 1 Page 17, line 21, delete "reaching an executed" and insert "
2 executing a"
- 3 Page 19, line 4, delete everything after "Register"
- 4 Page 19, delete line 5
- 5 Page 19, line 6, delete "subdivision 4"
- 6 Page 19, line 25, after "experience" insert "as a
7 constructor"
- 8 Page 19, line 28, delete "as a constructor"
- 9 Page 20, line 10, delete everything after "electrical"
- 10 Page 20, line 11, delete "electrical"
- 11 Page 20, line 19, delete everything after "(d)"
- 12 Page 20, delete lines 20 and 21 and insert "The board shall
13 select the primary designer as described in section 16B.33."
- 14 Page 20, line 36, delete "designer(s)" and insert "designer"
- 15 Page 21, line 3, after "(e)" insert: "With the approval of
16 the commissioner, the construction manager at risk proposal may
17 name either or both a mechanical or electrical subcontractor or
18 subcontractors as a named member of the construction at risk
19 team, and except as described below, if either or both a
20 mechanical or electrical subcontractors or subcontractor is so
21 named, the construction manager at risk is not required to
22 competitively bid the mechanical or electrical trade contract
23 work."
- 24 Page 21, lines 8 and 9, delete ", in addition to the
25 proposed price,"
- 26 Page 21, line 9, after "experience" insert "as constructors"
- 27 Page 21, line 16, delete everything after the period
- 28 Page 21, delete lines 17 to 22
- 29 Page 21, line 23, delete everything before "With"
- 30 Page 21, lines 28 and 29, delete "all trade contract,"
- 31 Page 21, lines 30 and 31, delete ", and all material
32 purchases for the project"
- 33 Page 21, line 32, after the period, insert "The
34 commissioner and the construction manager at risk shall agree to
35 a list of materials and equipment that shall be competitively
36 bid."

1 Page 21, line 33, delete "electrical or mechanical and"

2 Page 22, line 17, after the period, insert "To the extent
3 practical, the commissioner must give notice to representatives
4 of targeted group businesses designated under section 16C.16."



Minnesota Procurement Alternatives



Overall objectives of this bill

- Allow certain public owners to use alternative project delivery systems on building construction projects
 - State of Minnesota – Department of Administration
 - University of Minnesota
 - Minnesota State Colleges and Universities



What is a project delivery system?

- Definition – A project delivery system defines the roles of the participants in a construction project, the relationship among them, the timing of events and the practices and techniques of management that are used.

Why does Minnesota need this bill?

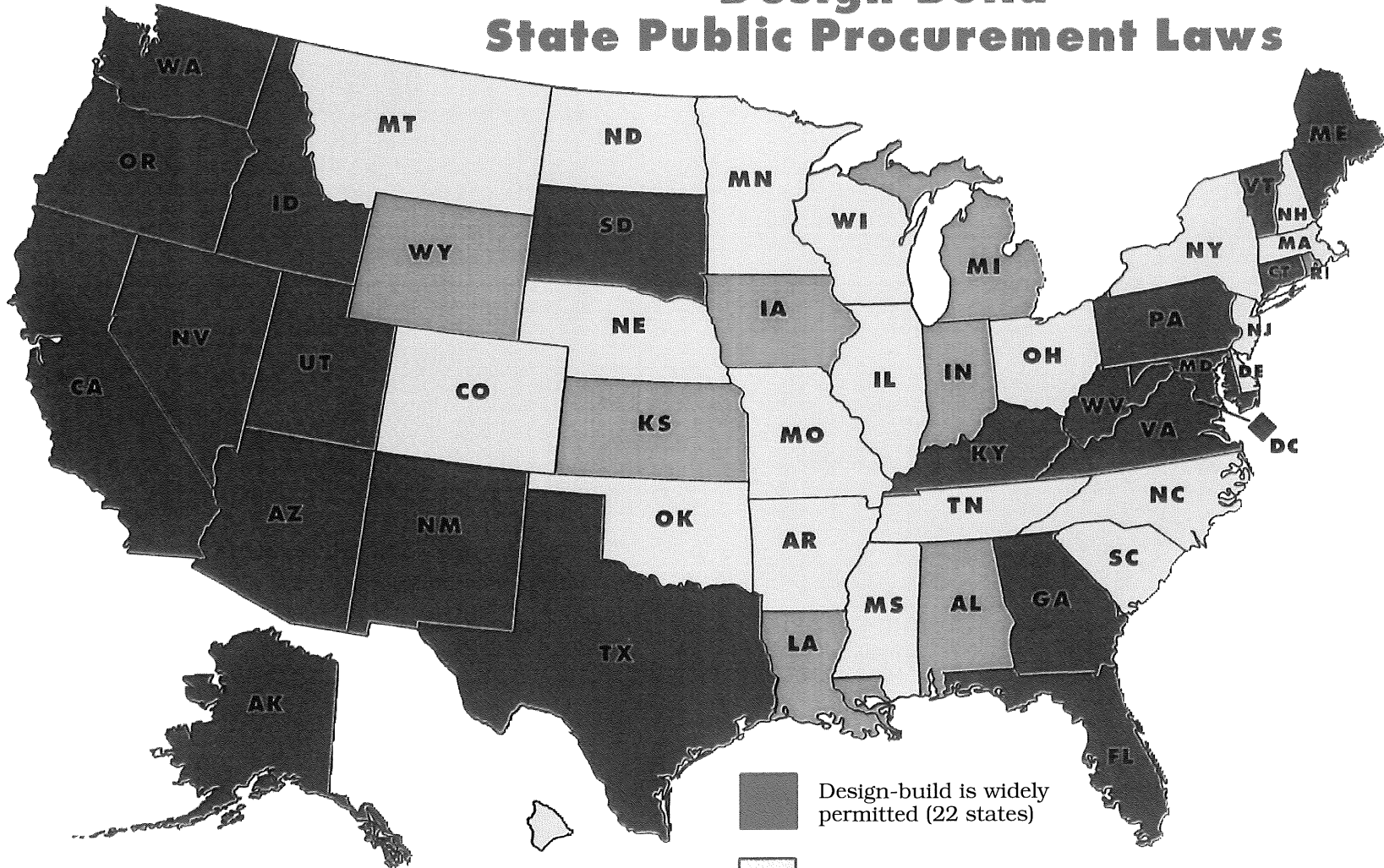
- Allows public owners the choice of delivery systems to meet specific project needs
- Faster delivery of projects






Trends in alternative delivery systems

- Private sector has successfully utilized alternative delivery systems for over 50 years
- Substantial increase in use (both public and private) over the past 25 years
 - 42 states currently allow design-build in some form

Design-Build State Public Procurement Laws



-  Design-build is widely permitted (22 states)
-  Design-build is a limited option (20 states)
-  State procurement laws do not permit the use of design-build in the public sector (8 states)

DBIA




DESIGN-BUILD
INSTITUTE OF AMERICA



Substantial increase in use over the past 25 years (continued)

- General Services Administration
 - Design-Bid-Build (traditional) – 60%
 - Construction Management at Risk – 20%
 - Design-Build – 20%
- U.S. Military uses design-build on a regular basis
- Using design-build, the Pentagon was completely reconstructed in less than one year after 9-11 attack
- Minnesota currently allows design-build on transportation projects

- 
- CMAR and Design-Build are new delivery systems for some Minnesota public entities.
 - The bill provides for limitations on their usage.



Design-Bid-Build (Traditional)

- Definition – Owner contracts with an architect who prepares complete construction documents. Project is bid out to multiple contractors with the award going to the lowest bidder.
- Selection basis
 - Architect/engineer – best qualifications
 - Contractor – lowest price



Design-Build

- Definition – Owner contracts with a single entity to perform both the design and construction of a project under a single contract.



Design-Build

■ Benefits

- Fastest delivery system
- Firm cost established early in the design process
- Constructor has input during the design process
- Single source of responsibility for the project



Design-Build

- Selection process
 - Minnesota State Designer Selection Board (SDSB)
 - SDSB is involved in the selection of all design-builders
 - SDSB was established in 1974 to bring fairness and objectivity to the selection of design professionals
 - SDSB has a 30+ year history of serving the State of Minnesota



Minnesota State Designer Selection Board (SDSB)

- SDSB is comprised of the following members
 - Architect (AIA Representative)
 - Engineer (ACEC Representative)
 - Representative of State Arts Board
 - Representative of User Agency
 - Two Public Members
 - Contractor (AGC Representative)



Design-Build

- Selection process

- Selection basis

- Design/Price based – Design-Builder selected based upon the proposed project design, cost and schedule that best meets the owner's needs
 - Qualifications based – Design-Builder selected on the basis of having the best qualifications to design and construct the project



Construction Management at Risk (CMAR)

- Definition – Owner enters into separate contracts with the construction manager and the architect. The construction manager provides pre-construction services, bids out trade contract work and guarantees the cost, quality and schedule of the project.



Construction Management at Risk (CMAR)

■ Benefits

- Constructor has input during the design process
- Faster than design-bid-build (traditional)
- Firm cost established during the design process



Construction Management at Risk (CMAR)

- Selection process

- Public entity using CMAR establishes a selection committee comprised of a minimum of three members
- Construction manager selection based upon qualifications and fees



Job Order Contracting

- Definition – Interested bidders are pre-qualified and enter into master contracts with the public entity. Each project is competitively bid out to a minimum number of contractors with the award going to the low bidder. Project size is limited to \$250,000 or less.



Job Order Contracting

■ Benefits

- Much faster than the current system
- Will reduce administrative costs
- Local contractors are available to respond to immediate needs of agency



Job Order Contracting

- Selection process
 - Competitive bidding




Why do CMAR and Design-Build work better in many instances?

- Teamwork and communication are enhanced
 - Every construction project has three key entities
 - Owner
 - Designer
 - Constructor



Why do CMAR and Design-Build work better in many instances?

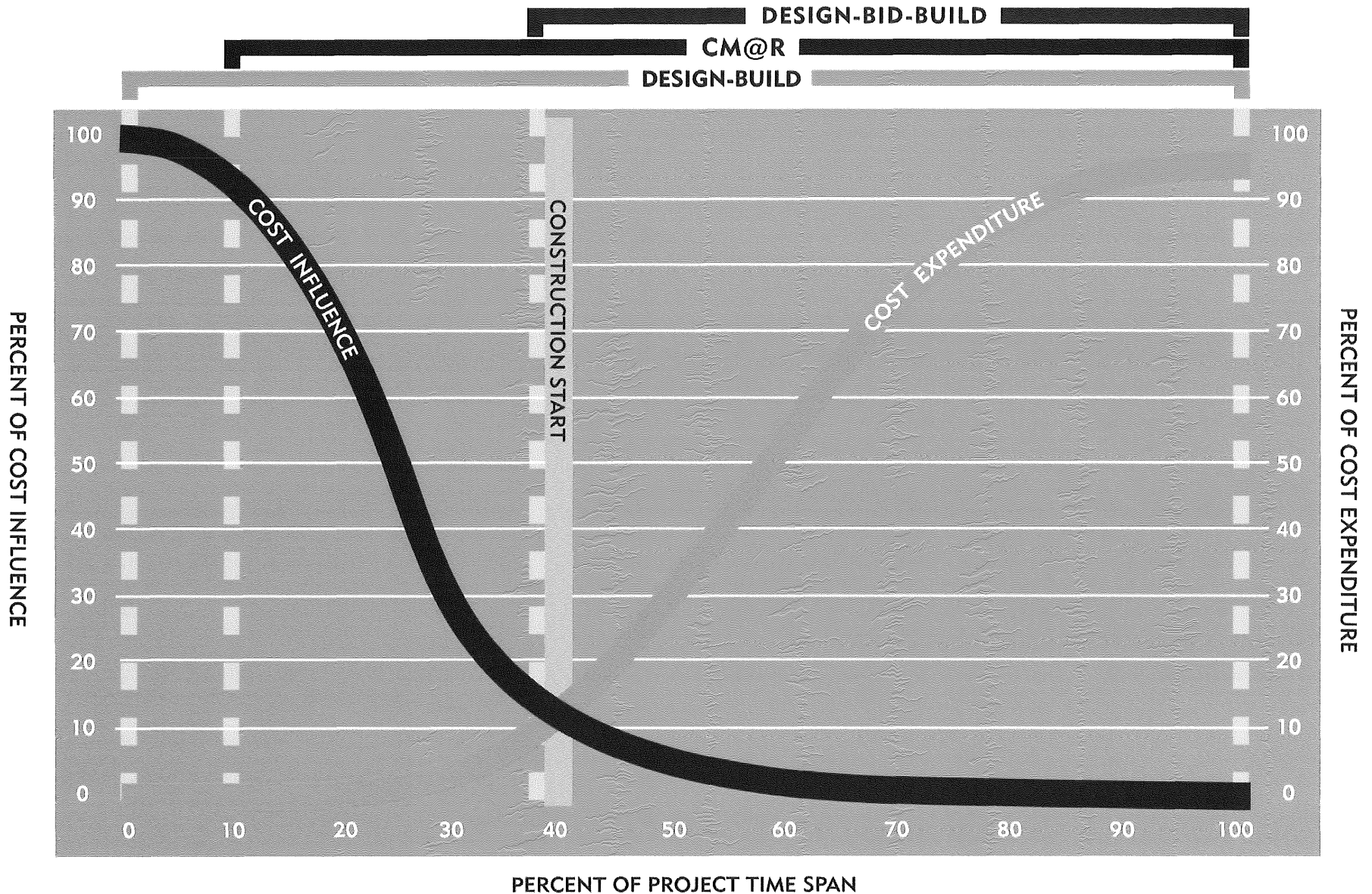
- Teamwork and communication are enhanced (continued)
 - CMAR and Design-Build bring all of these entities together for the entire project
 - All parties have a clear understanding of the owner's goals
 - Communication channels are established early
 - Designer and constructor work collaboratively to meet owner's goals




Why do CMAR and Design-Build work better in many instances? (continued)

- Constructor involvement during the design process

CONTRACTOR PROJECT COST INFLUENCE/ COST EXPENDITURE RELATIONSHIP



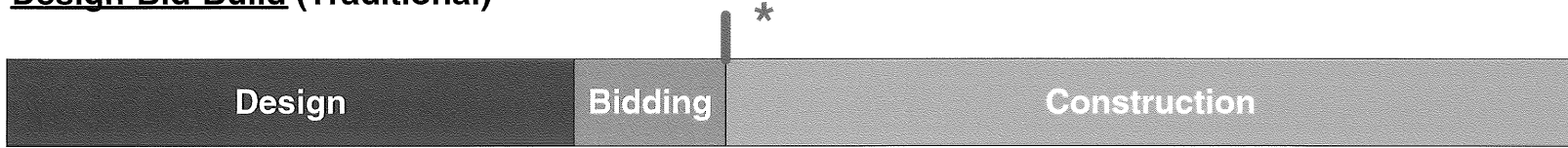
AT CONSTRUCTION START, 90 PERCENT OF THE TOTAL IMPACT ON COST HAS ALREADY OCCURRED.



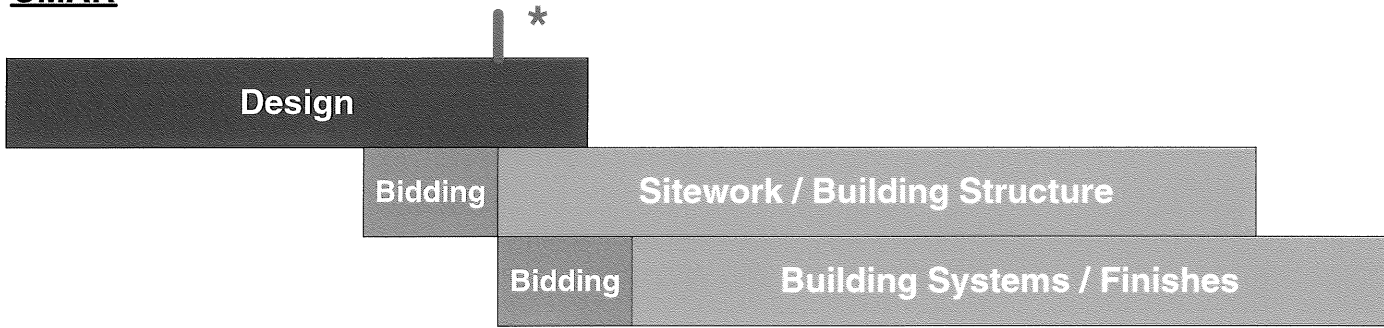
Why do CMAR and Design-Build work better in many instances? (continued)

- Both allow for phased construction
- The project cost is guaranteed much earlier

Design-Bid-Build (Traditional)

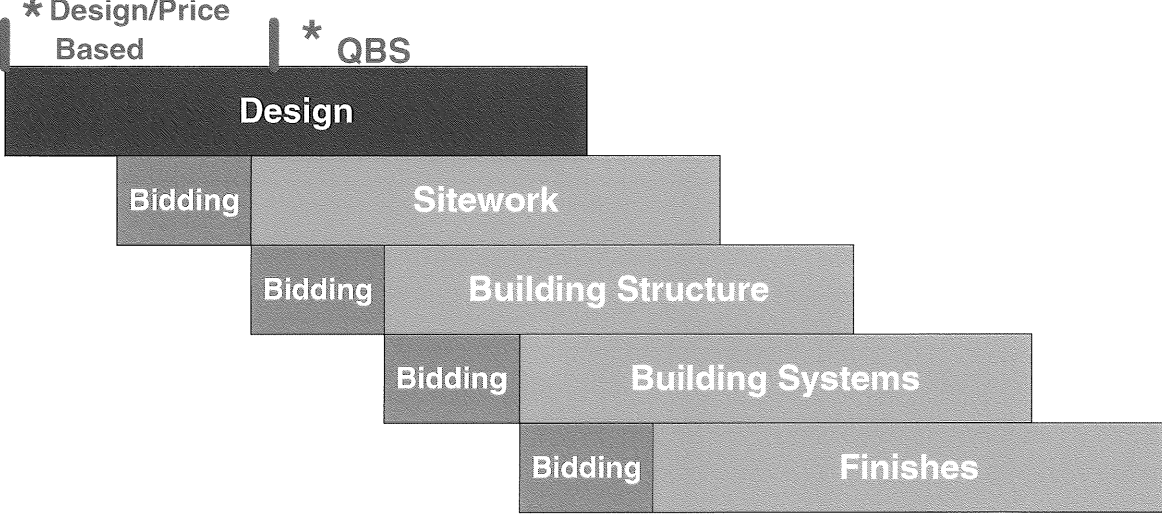


CMAR




Design-Build

* Design/Price Based * QBS



* Guaranteed Price Established





Limitation on the use of these delivery systems

■ Design-Build

- 5% of total number of projects for two years
- 10% of total number of projects thereafter

■ Construction Management at Risk

- 5% of total number of projects for two years
- 10% of total number of projects thereafter



Limitation on the use of these delivery systems (continued)

- Job Order Contracting

- No limit on number of projects
- Maximum project size is \$250,000



Organizations supporting this legislation

- State of Minnesota – Department of Administration
- University of Minnesota
- Minnesota State Colleges and Universities
- American Institute of Architects Minnesota
- Associated General Contractors of Minnesota



Organizations supporting this legislation (continued)

- American Council of Engineering Companies of Minnesota
- Design-Build Institute of America – Upper Midwest Chapter
- Minnesota State Designer Selection Board

1 **Senator Higgins from the Committee on State and Local**
2 **Government Operations, to which was referred**

3 **S.F. No. 1335:** A bill for an act relating to state
4 government; regulating state construction contracts; amending
5 Minnesota Statutes 2004, sections 16B.31, subdivision 1; 16B.33,
6 subdivision 1; proposing coding for new law in Minnesota
7 Statutes, chapter 16C.

8 Reports the same back with the recommendation that the bill
9 be amended as follows:

10 Page 4, line 13, before the semicolon, insert ", unless the
11 estimated cost of the project is less than \$2,000,000, in which
12 case the commissioner may act as the board"

13 Page 6, line 23, before "and" insert "16C.16;"

14 Page 8, line 8, after "persons" insert "or a firm with
15 persons who are"

16 Page 8, line 27, before the period, insert ", consistent
17 with section 16B.33, subdivision 3a"

18 Page 9, line 29, delete "design"

19 Page 10, line 8, delete everything after "Register" and
20 insert a period

21 Page 10, delete line 9

22 Page 10, lines 16 and 27, after "commissioner" insert "of
23 administration"

24 Page 11, line 19, after "experience" insert "as a
25 constructor or primary designer"

26 Page 11, lines 21 and 22, delete "as a constructor or
27 primary designer"

28 Page 11, line 34, after "request" insert "for"

29 Page 13, line 15, after "experience" insert "as a
30 constructor or primary designer"

31 Page 13, line 22, delete everything after "(c)"

32 Page 13, delete lines 23 to 26

33 Page 13, line 27, delete everything before "With"

34 Page 13, line 33, after the period, insert "A named
35 mechanical or electrical subcontractor member of a
36 design-builder's team shall competitively bid all subcontracted
37 portions of the mechanical or electrical subcontractor's work
38 from a list of qualified firms. Such qualified firms shall be
39 determined as described in paragraph (b). The commissioner and

1 the design-builder shall agree to a list of materials and
2 equipment that shall be competitively bid."

3 Page 14, line 18, after "experience" insert "as a
4 constructor or primary designer"

5 Page 15, line 33, delete "section" and insert "subdivision"

6 Page 17, line 17, delete "fee or the"

7 Page 17, line 21, delete "reaching an executed" and insert "
8 executing a"

9 Page 19, line 4, delete everything after "Register" and
10 insert a period

11 Page 19, delete lines 5 and 6

12 Page 19, line 25, after "experience" insert "as a
13 constructor"

14 Page 19, line 28, delete "as a constructor"

15 Page 20, line 10, delete everything after "electrical"

16 Page 20, line 11, delete "electrical"

17 Page 20, line 19, delete everything after "(d)"

18 Page 20, delete lines 20 and 21 and insert "The board shall
19 select the primary designer as described in section 16B.33."

20 Page 20, line 36, delete "designer(s)" and insert "designer"

21 Page 21, line 3, after "(e)" insert "With the approval of
22 the commissioner, the construction manager at risk proposal may
23 name either or both a mechanical or electrical subcontractor or
24 subcontractors as a named member of the construction at risk
25 team, and except as described below, if either or both a
26 mechanical or electrical subcontractors or subcontractor is so
27 named, the construction manager at risk is not required to
28 competitively bid the mechanical or electrical trade contract
29 work."

30 Page 21, line 8, delete ", in addition to"

31 Page 21, line 9, delete "the proposed price," and after
32 "experience" insert "as constructors"

33 Page 21, line 16, delete everything after the period

34 Page 21, delete lines 17 to 22

35 Page 21, line 23, delete everything before "With"

36 Page 21, lines 28 and 29, delete "all trade contract,"

1 Page 21, lines 30 and 31, delete "and all material
2 purchases for the project"

3 Page 21, line 32, after the period, insert "The
4 commissioner and the construction manager at risk shall agree to
5 a list of materials and equipment that shall be competitively
6 bid."

7 Page 21, line 33, delete "electrical or mechanical and"

8 Page 22, line 17, after the period, insert "To the extent
9 practical, the commissioner must give notice to representatives
10 of targeted group businesses designated under section 16C.16."

11 And when so amended the bill do pass. Amendments adopted.
12 Report adopted.

13
14 (Committee Chair)

15
16 March 16, 2005.....
17 (Date of Committee recommendation)

Senators Betzold; Johnson, D. E. and Bakk introduced—

S. F. No. 483 Referred to the Committee on State & Local Government Operations

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A bill for an act

relating to state government; providing that chaplains employed by the state are in the classified civil service; amending Minnesota Statutes 2004, section 43A.08, subdivision 1.

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

Section 1. Minnesota Statutes 2004, section 43A.08, subdivision 1, is amended to read:

Subdivision 1. [UNCLASSIFIED POSITIONS.] Unclassified positions are held by employees who are:

(1) chosen by election or appointed to fill an elective office;

(2) heads of agencies required by law to be appointed by the governor or other elective officers, and the executive or administrative heads of departments, bureaus, divisions, and institutions specifically established by law in the unclassified service;

(3) deputy and assistant agency heads and one confidential secretary in the agencies listed in subdivision 1a and in the Office of Strategic and Long-Range Planning;

(4) the confidential secretary to each of the elective officers of this state and, for the secretary of state and state auditor, an additional deputy, clerk, or employee;

(5) intermittent help employed by the commissioner of public safety to assist in the issuance of vehicle licenses;

1 (6) employees in the offices of the governor and of the
2 lieutenant governor and one confidential employee for the
3 governor in the Office of the Adjutant General;

4 (7) employees of the Washington, D.C., office of the state
5 of Minnesota;

6 (8) employees of the legislature and of legislative
7 committees or commissions; provided that employees of the
8 Legislative Audit Commission, except for the legislative
9 auditor, the deputy legislative auditors, and their confidential
10 secretaries, shall be employees in the classified service;

11 (9) presidents, vice-presidents, deans, other managers and
12 professionals in academic and academic support programs,
13 administrative or service faculty, teachers, research
14 assistants, and student employees eligible under terms of the
15 federal Economic Opportunity Act work study program in the
16 Perpich Center for Arts Education and the Minnesota State
17 Colleges and Universities, but not the custodial, clerical, or
18 maintenance employees, or any professional or managerial
19 employee performing duties in connection with the business
20 administration of these institutions;

21 (10) officers and enlisted persons in the National Guard;

22 (11) attorneys, legal assistants, and three confidential
23 employees appointed by the attorney general or employed with the
24 attorney general's authorization;

25 (12) judges and all employees of the judicial branch,
26 referees, receivers, jurors, and notaries public, except
27 referees and adjusters employed by the Department of Labor and
28 Industry;

29 (13) members of the State Patrol; provided that selection
30 and appointment of State Patrol troopers must be made in
31 accordance with applicable laws governing the classified
32 service;

33 ~~(14) chaplains-employed-by-the-state;~~

34 ~~(15)~~ examination monitors and intermittent training
35 instructors employed by the Departments of Employee Relations
36 and Commerce and by professional examining boards and

1 intermittent staff employed by the technical colleges for the
2 administration of practical skills tests and for the staging of
3 instructional demonstrations;

4 ~~(16)~~ (15) student workers;

5 ~~(17)~~ (16) executive directors or executive secretaries
6 appointed by and reporting to any policy-making board or
7 commission established by statute;

8 ~~(18)~~ (17) employees unclassified pursuant to other
9 statutory authority;

10 ~~(19)~~ (18) intermittent help employed by the commissioner of
11 agriculture to perform duties relating to pesticides,
12 fertilizer, and seed regulation;

13 ~~(20)~~ (19) the administrators and the deputy administrators
14 at the State Academies for the Deaf and the Blind; and

15 ~~(21)~~ (20) chief executive officers in the Department of
16 Human Services.

17 Sec. 2. [TRANSITION.]

18 The incumbent of a position that is transferred from the
19 unclassified to the classified service under section 1 is
20 appointed to the newly classified position.

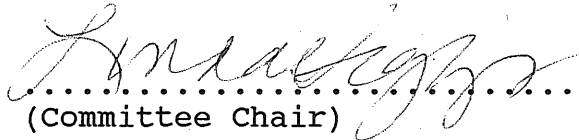
1 Senator Higgins from the Committee on State and Local
2 Government Operations, to which was referred

3 S.F. No. 483: A bill for an act relating to state
4 government; providing that chaplains employed by the state are
5 in the classified civil service; amending Minnesota Statutes
6 2004, section 43A.08, subdivision 1.

7 Reports the same back with the recommendation that the bill
8 do pass. Report adopted.

9

10


.....
(Committee Chair)

11

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14

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March 16, 2004.....
(Date of Committee recommendation)

**Senate Counsel, Research,
and Fiscal Analysis**

G-17 STATE CAPITOL
75 REV. DR. MARTIN LUTHER KING, JR. BLVD.
ST. PAUL, MN 55155-1606
(651) 296-4791
FAX: (651) 296-7747
JO ANNE ZOFF SELLNER
DIRECTOR

Senate

State of Minnesota

S.F. No. 1234 - Relating to the City of Minneapolis

Author: Senator Lawrence J. Pogemiller

Prepared by: Daniel P. McGowan, Senate Counsel (651/296-4397) *DPM*

Date: March 11, 2005

Section 1, subdivision 1, creates the Minneapolis study panel on city governance to study the form and structure of city government in the city of Minneapolis and to make appropriate recommendations to various bodies, including the Legislature, to enhance the quality of life for Minneapolis citizens.

Subdivision 2 provides the membership of the study panel and the appointing authorities.

Subdivision 3 provides that the members of the study panel serve without compensation but may be reimbursed for necessary expenses and that the city of Minneapolis may contract with a person or entity to provide staff services for the study panel.

Subdivision 4 provides a one-year duration of the study panel.

Subdivision 5 defines the purpose and mission of the panel to study the governance and management structure of the city with a view toward improving and enhancing the quality of life by examining certain enumerated items.

Subdivision 6 requires the study panel to report to the Minneapolis Charter Commission by February 1, 2006, on the results of its study, along with any recommendations to streamline or modernize the structure of the Minneapolis city government.

Section 2 provides an appropriation of \$50,000 from the general fund to the city of Minneapolis to provide funding for the study panel, which appropriation would be deducted from the local government aid payable to the city in fiscal year 2006.

Section 3 provides an effective date of July 1, 2005, and a repealer of June 30, 2006, to conform to the one-year duration of the study panel in section 1, subdivision 4.

DPM:vs

Senator Pogemiller introduced--

S.F. No. 1234: Referred to the Committee on State and Local Government Operations.

1 A bill for an act

2 relating to the city of Minneapolis; creating a study
3 panel on the governance and management structure of
4 the city; providing membership of the study panel;
5 appropriating money.

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

7 Section 1. [MINNEAPOLIS STUDY PANEL ON CITY GOVERNANCE.]

8 Subdivision 1. [CREATION.] The Minneapolis study panel on
9 city governance, hereinafter called "the study panel," is
10 established. The purpose of the study panel is to study the
11 form and structure of city government in the city of Minneapolis
12 and to make appropriate recommendations to the Minneapolis City
13 Charter Commission, legislature, or other branch of government
14 any proposed changes to enhance the quality of life for all
15 citizens of Minneapolis.

16 Subd. 2. [MEMBERSHIP.] The study panel shall consist of
17 seven members who must be residents of the city of Minneapolis.
18 The appointing authorities of the study panel are as follows:
19 one member to be appointed by the governor; one member to be
20 appointed by the mayor of Minneapolis; one member to be
21 appointed by the Minneapolis City Council; one member to be
22 appointed by the Minneapolis Park and Recreation Board; one
23 member to be appointed by the Minneapolis Public Library Board;
24 one member to be appointed by the Minneapolis Downtown Council;
25 and one member to be appointed by the Minneapolis School Board.

1 Membership on the study panel must be by unanimous consent of
2 the other members. If any member of the study panel objects to
3 the appointment of any other member, the appointing authority
4 must submit another appointment to the study panel that would be
5 subject to the unanimous consent of the members. The study
6 panel shall elect a chair from among its members and meetings of
7 the study panel shall be at the call of the chair.

8 Subd. 3. [COMPENSATION; EXPENSES.] Members of the study
9 panel shall serve without compensation but may be reimbursed
10 their necessary expenses in carrying out the business of the
11 study panel. The city of Minneapolis may contract with any
12 person or entity to provide staff services for the study panel
13 and may determine the compensation of staff as it deems
14 appropriate.

15 Subd. 4. [DURATION.] The study panel's activity shall be
16 limited to one year from the effective date of sections 1 and 2,
17 and the study panel shall cease to exist on that date.

18 Subd. 5. [PURPOSE AND MISSION.] The study panel shall
19 examine the governance and management structure of the city of
20 Minneapolis with a view toward improving and enhancing the
21 quality of life for all citizens of Minneapolis. The
22 examination may include, but is not limited to:

23 (1) the extent to which the current Minneapolis city
24 governance structure enhances and carries out the goals,
25 priorities, and budgetary constraints of the city and its
26 citizens as a whole;

27 (2) whether there is sufficient citizen and city department
28 input prior to city decision making;

29 (3) how the overall objectives of the city are carried out
30 and coordinated with the various city departments;

31 (4) if the city and its taxpayers have been getting a fair
32 return on public expenditures;

33 (5) if the city is able to receive and direct other funding
34 sources for the purposes and objectives of the city and its
35 citizens;

36 (6) if the current governance and management structure

1 enhances and continues the city's superior job and workforce
2 planning;

3 (7) whether the city's planning for information technology,
4 which has been recognized as some of the finest in the country,
5 integrates well with the current city governance and management
6 structure;

7 (8) if the city can continue its present commitment to
8 long-range planning in the manner it has in the past to
9 adequately take care of its capital assets;

10 (9) if the city governance and management structure can
11 continue to facilitate the current favorable long-term analysis
12 of future needs as a means of long-term decision making;

13 (10) if the citizens advisory groups and neighborhood
14 groups, which in the past have played an outstanding role in the
15 governance of Minneapolis, are poised to continue that process
16 in the future;

17 (11) if the current governance and management structure of
18 the city that has encouraged such an outstanding sense of
19 community for the people who live, work, learn, and play in
20 Minneapolis has the likelihood of giving an increased sense of
21 commitment and confidence in the neighborhoods and the city as a
22 whole;

23 (12) if the current governance and management structure of
24 the city will continue to strengthen the civic involvement of
25 the citizen and organizational members of the community as it
26 has for so many years; and

27 (13) if the current governance and management structure of
28 the city will ensure that neighborhood-based planning remains
29 the foundation of the city and it will continue to lead to
30 creative and innovative approaches to management and governance
31 of the city.

32 Subd. 6. [REPORT.] The study panel shall, by February 1,
33 2006, report to the Minneapolis Charter Commission on the
34 results of its examination of the governance and management
35 structure of the city of Minneapolis along with any
36 recommendations to streamline or modernize that structure to

1 Senator Higgins from the Committee on State and Local
2 Government Operations, to which was referred

3 S.F. No. 1234: A bill for an act relating to the city of
4 Minneapolis; creating a study panel on the governance and
5 management structure of the city; providing membership of the
6 study panel; appropriating money.

7 Reports the same back with the recommendation that the bill
8 be amended as follows:

9 Page 3, line 33, after "Commission" insert "and to the
10 legislature"

11 And when so amended the bill do pass and be re-referred to
12 the Committee on Taxes. Amendments adopted. Report adopted.

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.....
(Committee Chair)

March 16, 2005.....
(Date of Committee recommendation)

**Senate Counsel, Research,
and Fiscal Analysis**

G-17 STATE CAPITOL
75 REV. DR. MARTIN LUTHER KING, JR. BLVD.
ST. PAUL, MN 55155-1606
(651) 296-4791
FAX: (651) 296-7747
JO ANNE ZOFF SELLNER
DIRECTOR

Senate

State of Minnesota

S.F. No. 493 - Relating to the Yellow Medicine County Hospital District

Author: Senator Gary Kubly

Prepared by: Daniel P. McGowan, Senate Counsel (651/296-4397)



Date: March 15, 2005

The proposed legislation amends a 1963 special law that set up the Yellow Medicine County Hospital District. The original law provided for a hospital board of nine members, originally appointed by the Yellow Medicine County Board, but thereafter elected for three-year terms. This additional subdivision would allow the board to appoint not more than three additional voting members who are not residents of the hospital district as required by the law for the nine elected members. The board would be authorized to designate the terms and time of appointment, but the terms could not exceed three years, which is the term for the elected members. The appointed members would be afforded all the privileges of board membership, including holding one of the four offices of the board, and could be reappointed for successive terms. The appointed members could be removed from office or from the board without cause by a two-thirds majority vote of the elected members.

DPM:vs

Senators Kubly, Lourey, Sams, Berglin and Vickerman introduced—

S. F. No. 493 Referred to the Committee on Health & Family Security

1 A bill for an act

2 relating to hospital districts; providing for board
3 membership in the Yellow Medicine County Hospital
4 District; amending Laws 1963, chapter 276, section 2,
5 by adding a subdivision.

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

7 Section 1. Laws 1963, chapter 276, section 2, is amended
8 by adding a subdivision to read:

9 Subd. 2d. In addition to elected members of the hospital
10 district board, the board may appoint not more than three
11 additional voting members who are not residents of the
12 district. The terms of appointed members must be designated by
13 the board at the time of appointment, but must not exceed three
14 years. Appointed members may be reappointed for successive
15 terms. Appointed members have all the privileges of board
16 membership including eligibility to hold office. Appointed
17 members may be removed from office or the board without cause by
18 a two-thirds majority vote of the elected members.

1 Senator Higgins from the Committee on State and Local
2 Government Operations, to which was re-referred

3 S.F. No. 493: A bill for an act relating to hospital
4 districts; providing for board membership in the Yellow Medicine
5 County Hospital District; amending Laws 1963, chapter 276,
6 section 2, by adding a subdivision.

7 Reports the same back with the recommendation that the bill
8 do pass. Report adopted.

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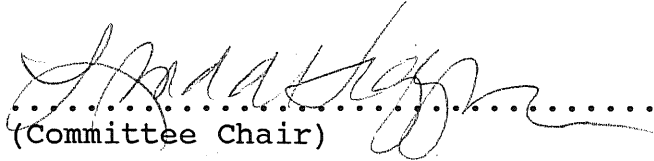
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.....
(Committee Chair)

March 16, 2005.....
(Date of Committee recommendation)

**Senate Counsel, Research,
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FAX: (651) 296-7747
JO ANNE ZOFF SELLNER
DIRECTOR

Senate

State of Minnesota

S.F. No. 1208 - Department of Employee Relations

Author: Senator Claire A. Robling

Prepared by: Thomas S. Bottern, Senate Counsel (651/296-3810) *TSB*

Date: March 14, 2005

This is an agency bill prepared by the Department of Employee Relations that makes several miscellaneous changes in law that affect the work done by the department.

Section 1 [ADDITIONAL UNCLASSIFIED POSITIONS.] changes executive branch authority to designate additional unclassified positions in the state's civil service in two different ways:

- Adds Explore Minnesota Tourism and the Iron Range Resources and Rehabilitation Board to the list of agencies that may designate additional unclassified positions under existing law.
- Allows a position to be designated as unclassified if the employee reports to an assistant agency head and would be considered part of the agency head's management team, in addition to other requirements in existing law. Current law requires additional unclassified employees to report to agency heads or deputy agency heads.

Section 2 [LIMITED CONSIDERATION OF APPLICANTS.] current law specifies how the Commissioner of Employee Relations may limit consideration of applicants for various positions in state employment. Among other options, the commissioner may limit consideration to former employees who have left employment within the past four years in good standing and have indicated a desire for reemployment. This section strikes the requirement that they must have separated from the class in "good standing." The "good standing" requirement was created in legislative changes made to the section last year and created a standard that did not previously exist. The removal of this term returns the reinstatement process to its original form.

Section 3 [TEMPORARY APPOINTMENTS.] this section makes changes that conform this section with the changes made to the state employment process in the 2004 Session. A new reference is added to the employment data base that is currently in use and an obsolete reference to the eligible list is stricken.

Section 4 [ELECTIVE ELIGIBILITY.] strikes the Minnesota Humanities Commission from the list of groups eligible to participate in the State Employee Group Insurance Plan.

Section 5 [DISSEMINATION OF INFORMATION.] authorizes the Commissioner of Employee Relations to electronically transmit information for open enrollment elections to all active employees. This section requires the commissioner to provide notice that the information will be electronically transmitted.

TSB:rer

Senators Robling and Wergin introduced--

S.F. No. 1208: Referred to the Committee on State and Local Government Operations.

1 A bill for an act

3 relating to employee relations; modifying state
4 employment provisions; amending Minnesota Statutes
5 2004, sections 43A.08, subdivision 1a; 43A.10,
6 subdivision 6a; 43A.15, subdivision 3; 43A.27,
subdivision 2; 43A.31, by adding a subdivision.

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

8 Section 1. Minnesota Statutes 2004, section 43A.08,
9 subdivision 1a, is amended to read:

10 Subd. 1a. [ADDITIONAL UNCLASSIFIED POSITIONS.] Appointing
11 authorities for the following agencies may designate additional
12 unclassified positions according to this subdivision: the
13 Departments of Administration; Agriculture; Commerce;
14 Corrections; Education; Employee Relations; Employment and
15 Economic Development; Finance; Health; Human Rights; Labor and
16 Industry; Natural Resources; Public Safety; Human Services;
17 Revenue; Transportation; and Veterans Affairs; the Housing
18 Finance and Pollution Control Agencies; the State Lottery; the
19 state Board of Investment; the Office of Administrative
20 Hearings; the Office of Environmental Assistance; the Offices of
21 the Attorney General, Secretary of State, and State Auditor; the
22 Minnesota State Colleges and Universities; the Higher Education
23 Services Office; the Perpich Center for Arts Education; and the
24 Minnesota Zoological Board; Explore Minnesota Tourism; and the
25 Iron Range Resources and Rehabilitation Board.

26 A position designated by an appointing authority according

1 to this subdivision must meet the following standards and
2 criteria:

3 (1) the designation of the position would not be contrary
4 to other law relating specifically to that agency;

5 (2) the person occupying the position would report directly
6 to the agency head or, deputy agency head, or assistant agency
7 head and would be designated as part of the agency head's
8 management team;

9 (3) the duties of the position would involve significant
10 discretion and substantial involvement in the development,
11 interpretation, and implementation of agency policy;

12 (4) the duties of the position would not require primarily
13 personnel, accounting, or other technical expertise where
14 continuity in the position would be important;

15 (5) there would be a need for the person occupying the
16 position to be accountable to, loyal to, and compatible with,
17 the governor and the agency head, the employing statutory board
18 or commission, or the employing constitutional officer;

19 (6) the position would be at the level of division or
20 bureau director or assistant to the agency head; and

21 (7) the commissioner has approved the designation as being
22 consistent with the standards and criteria in this subdivision.

23 Sec. 2. Minnesota Statutes 2004, section 43A.10,
24 subdivision 6a, is amended to read:

25 Subd. 6a. [LIMITED CONSIDERATION OF APPLICANTS.] The
26 commissioner may limit consideration to only those applicants
27 who have indicated availability for the geographic location,
28 employment condition, travel status, and job grouping of the
29 vacant position and who have indicated possession of the minimum
30 qualifications for the vacant position. In addition, the
31 commissioner may limit consideration to only those applicants
32 who are:

33 (1) employees on a layoff list for the job class of the
34 position. The appointing authority shall consider those names
35 as provided in collective bargaining agreements and plans
36 established under section 43A.18;

1 (2) current employees of the civil service, the Minnesota
2 State Retirement System, the Public Employees Retirement
3 Association, and the Teacher's Retirement Association, or
4 employees of one or more agencies or organizational units under
5 them;

6 (3) former permanent and probationary employees of the job
7 class who separated from the class in-good-standing within the
8 past four years and have indicated availability for
9 reinstatement to the class; or

10 (4) current permanent and probationary employees who have
11 indicated availability for transfer or demotion to the job class.

12 Sec. 3. Minnesota Statutes 2004, section 43A.15,
13 subdivision 3, is amended to read:

14 Subd. 3. [TEMPORARY APPOINTMENTS.] The commissioner may
15 authorize an appointing authority to make a temporary
16 appointment of up to six months. The commissioner may, in the
17 best interest of the state, grant an extension of a temporary
18 appointment or approve a temporary appointment to fill a vacancy
19 created by an approved leave of absence to a maximum period of
20 one year. When practicable, the appointing authority may search
21 the employment database for qualified applicants or, when
22 necessary, the commissioner may ~~certify-any-qualified-eligible~~
23 ~~from-an-eligible-list-for-the-temporary-appointment,-but-may~~
24 authorize the appointment of any person deemed qualified by the
25 appointing authority.

26 No person shall be employed on a temporary basis in any one
27 agency for more than 12 months in any 24-month period.

28 Sec. 4. Minnesota Statutes 2004, section 43A.27,
29 subdivision 2, is amended to read:

30 Subd. 2. [ELECTIVE ELIGIBILITY.] The following persons, if
31 not otherwise covered by section 43A.24, may elect coverage for
32 themselves or their dependents at their own expense:

33 (a) a state employee, including persons on layoff from a
34 civil service position as provided in collective bargaining
35 agreements or a plan established pursuant to section 43A.18;

36 (b) an employee of the Board of Regents of the University

1 of Minnesota, including persons on layoff, as provided in
2 collective bargaining agreements or by the Board of Regents;

3 (c) an officer or employee of the State Agricultural
4 Society, State Horticultural Society, Sibley House Association,
5 ~~Minnesota-Humanities-Commission~~, Minnesota Area Industry Labor
6 Management Councils, Minnesota International Center, Minnesota
7 Academy of Science, Science Museum of Minnesota, Minnesota
8 Safety Council, state Office of Disabled American Veterans,
9 state Office of the American Legion and its auxiliary, state
10 Office of Veterans of Foreign Wars and its auxiliary, or state
11 Office of the Military Order of the Purple Heart;

12 (d) a civilian employee of the adjutant general who is paid
13 from federal funds and who is not eligible for benefits from any
14 federal civilian employee group life insurance or health
15 benefits program; and

16 (e) an officer or employee of the State Capitol Credit
17 Union or the Highway Credit Union.

18 Sec. 5. Minnesota Statutes 2004, section 43A.31, is
19 amended by adding a subdivision to read:

20 Subd. 6. [DISSEMINATION OF INFORMATION.] The commissioner
21 may electronically transmit to active employees all information
22 necessary to administer sections 43A.22 to 43A.30, including,
23 but not limited to, information necessary for open enrollment
24 elections. The commissioner must provide notification that the
25 information will be electronically transmitted.

1 Senator moves to amend S.F. No. 1208 as follows:

2 Page 4, line 15, strike "and"

3 Page 4, line 17, before the period, insert "; and

4 (f) an officer or employee of the Minnesota Humanities

5 Commission, provided that the commission receives a minimum

6 appropriation of \$200,000 in state funds each fiscal year

7 beginning in fiscal year 2006"

8 Page 4, after line 17, insert:

9 "[EFFECTIVE DATE.] This section is effective July 1, 2005."

1 Senator Higgins from the Committee on State and Local
2 Government Operations, to which was referred

3 S.F. No. 1208: A bill for an act relating to employee
4 relations; modifying state employment provisions; amending
5 Minnesota Statutes 2004, sections 43A.08, subdivision 1a;
6 43A.10, subdivision 6a; 43A.15, subdivision 3; 43A.27,
7 subdivision 2; 43A.31, by adding a subdivision.

8 Reports the same back with the recommendation that the bill
9 be amended as follows:

10 Pages 1 and 2, delete section 1

11 Page 4, line 15, strike "and"

12 Page 4, line 17, before the period, insert "; and

13 (f) an officer or employee of the Minnesota Humanities
14 Commission, provided that the commission receives a minimum
15 appropriation of \$200,000 in state funds each fiscal year
16 beginning in fiscal year 2006"

17 Page 4, after line 17, insert:

18 "[EFFECTIVE DATE.] This section is effective July 1, 2005."

19 Renumber the sections in sequence

20 Amend the title as follows:

21 Page 1, line 4, delete "43A.08, subdivision 1a;"

22 And when so amended the bill do pass. Amendments adopted.
23 Report adopted.

24
25 (Committee Chair)

26
27 March 16, 2005
28 (Date of Committee recommendation)