

SENATE

STATE OF MINNESOTA

NINETY-FOURTH SESSION

S.F. No. 2162

(SENATE AUTHORS: DIBBLE, Wiklund, Johnson Stewart, Nelson and McEwen)		
DATE	D-PG	OFFICIAL STATUS
03/06/2025	651	Introduction and first reading Referred to Transportation
03/17/2025	825a	Comm report: To pass as amended and re-refer to State and Local Government
	874	Authors added Nelson; McEwen

1.1

A bill for an act

1.2

relating to transportation; modifying state-aid engineering and design standards

1.3

variances; authorizing local road authorities to adopt design elements without

1.4

state-aid engineering and design variances; modifying state-aid variance procedures;

1.5

establishing advisory committee on design variances; requiring legislative

1.6

notification for denied variances; requiring a report; amending Minnesota Statutes

1.7

2024, sections 162.02, subdivision 3a, by adding subdivisions; 162.09, subdivision

1.8

3a, by adding subdivisions; 162.155; proposing coding for new law in Minnesota

1.9

Statutes, chapter 162; repealing Minnesota Rules, parts 8820.3300, subparts 1, 1a,

1.10

3, 4; 8820.3400.

1.11

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

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Section 1. Minnesota Statutes 2024, section 162.02, is amended by adding a subdivision

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to read:

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Subd. 1a. **Local design control.** (a) A political subdivision may use a roadway design

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that is different than the design rules adopted and promulgated by the commissioner if the

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political subdivision adopts, by resolution, a qualifying alternative roadway design standard.

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A political subdivision that adopts a qualifying alternative design standard is solely

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responsible for ensuring that the design or designs meet the adopted standard. The

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commissioner must forgo review of geometric designs, except for the review of design

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standards for the vertical clearances for underpasses in Minnesota Rules, part 8820.2500,

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for county state-aid roadway projects in a city or county adopting alternative design standards

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for that project. If a city has adopted an alternative design standard for a past roadway design

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project in that city, a county may elect to use the same alternative design standard for the

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geometric design of a county state-aid project within that city. For purposes of this

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subdivision, "qualifying alternative roadway design standard" includes any of the following

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publications:

(1) the latest edition of the Department of Transportation Facility Design Guide or successor document;

(2) the American Association of State Highway and Transportation Officials' (AASHTO) A Policy on Geometric Design Highways and Streets or other AASHTO design guides formally recognized by the Federal Highway Administration;

(3) the Institute of Transportation Engineers' Designing Walkable Urban Thoroughfares: A Context Sensitive Approach and Implementing Context Sensitive Design Handbook;

(4) the National Association of City Transportation Officials' (NACTO) Urban Street Design Guide and other NACTO design guides formally recognized by the Federal Highway Administration;

(5) the Global Designing Cities Initiative's (GDCI) Global Street Design Guide and Designing Streets for Kids supplement; or

(6) any other design guide recognized or approved by the Federal Highway Administration in United States Code, title 23, section 109(o)(B).

(b) This subdivision does not apply to a natural preservation route established under section 162.021.

(c) The commissioner, Metropolitan Council, or any other metropolitan planning organization in this state must not require a political subdivision that adopts a qualifying alternative design standard to meet minimum state-aid geometric design standards for state-funded or federally funded county state-aid roadway projects.

(d) The commissioner may require a resolution by a political subdivision adopting a qualifying alternative roadway design under this section that indemnifies, saves, and holds harmless the state and its agents of and from claims, demands, actions, or causes of action arising out of by reason adopting the alternative design standard. The political subdivision must further agree to defend at its sole cost and expense any action or proceeding begun for asserting any claim of whatever character against the state arising as a result of adopting the qualifying alternative roadway design.

(e) A political subdivision adopting a qualifying alternative design standard is exempt from municipal liability claims as provided under section 466.03, subdivision 5.

EFFECTIVE DATE. This section is effective July 1, 2025, for county state-aid roadway projects on or after that date.

Sec. 2. Minnesota Statutes 2024, section 162.02, subdivision 3a, is amended to read:

Subd. 3a. **Variances from rules and engineering standards.** (a) The commissioner may grant variances from the rules and from the engineering standards developed pursuant to section 162.021 or 162.07, subdivision 2. A political subdivision in which a county state-aid highway is located or is proposed to be located may submit a written request to the commissioner for a variance for that highway. The commissioner ~~shall~~ must comply with section 174.75, subdivision 5, in evaluating a variance request related to a complete streets project. A political subdivision must not be required to seek a variance from county state-aid design standards if the proposed deviation from rules is designed in accordance with a qualifying alternative roadway design standard under subdivision 1a.

(b) The commissioner may grant or deny the variance within 30 days of receiving the variance request. If the variance is denied, the political subdivision may request, within 30 days of receiving notice of denial, and ~~shall~~ must be granted a contested case hearing. The commissioner must use the criteria set forth in subdivision 3c to evaluate the variance request. The commissioner must give special consideration to proposed modifications for safety considerations if the proposed design is intended to increase the safety of nonmotorized transportation to and from a school.

(c) If the commissioner denies a variance, the commissioner must notify the chairs and ranking minority members of the legislative committees with jurisdiction over transportation and provide justification for denying the variance within 30 days of notifying the political subdivision of the denial. The justification must include the commissioner's reasoning for the denial, the recommendation of the advisory committee on variances, and the reasoning used by the committee to approve or deny the variance.

~~(e)~~ (d) For purposes of this subdivision, "political subdivision" includes (1) an agency of a political subdivision which has jurisdiction over parks, and (2) a regional park authority.

(e) The commissioner must not require a political subdivision to seek a variance from design rules under this section for:

(1) narrowing lanes from 11 feet to ten feet for roadways in an urban or suburban context, except where specifically prohibited in adopted state-aid rules;

(2) designs allowed in the current Department of Transportation Facility Design Guide or successor document for roadways of similar context;

(3) designs allowed by current Department of Transportation trunk highway standards for roadways of similar context; or

(4) any design element in a project funded by the safe routes to school program, except where specifically prohibited in adopted state-aid rules or the current Department of Transportation Facility Design Guide.

(f) Paragraph (e) does not apply to a natural preservation route established under section 162.021.

(g) The commissioner may require a resolution by the recipient of a variance that indemnifies, saves, and holds harmless the state and its agents and employees of and from claims, demands, actions, or causes of action arising out of or by reason of granting the variance. The recipient of the variance must further agree to defend at its sole cost and expense any action or proceeding begun for asserting any claim of whatever character arising as a result of granting the variance.

EFFECTIVE DATE. This section is effective July 1, 2025, for county state-aid roadway projects on or after that date.

Sec. 3. Minnesota Statutes 2024, section 162.02, is amended by adding a subdivision to read:

Subd. 3c. **Variance format.** To submit a formal request for a variance from county state-aid design rules, a political subdivision must submit a written request to the commissioner. The written request must be in the form of an adopted resolution. The request must:

(1) identify the project by location and termini;

(2) cite the specific part or standard for which the variance is requested from county state-aid design rules;

(3) describe the proposed modification;

(4) describe the economic, social, safety, and environmental impacts that may result from the requested variance;

(5) identify the project's effectiveness in eliminating an existing and projected deficiency in the transportation system, including identifying and citing whether the existing roadway's design meets:

(i) current Department of Transportation Facility Design Guide or successor material criteria for a similar road context; or

(ii) a recognized or approved Federal Highway Administration design guide standard for a similar road context;

5.1 (6) identify effects on adjacent lands;

5.2 (7) identify the number of persons affected; and

5.3 (8) identify safety considerations as they apply to:

5.4 (i) pedestrians;

5.5 (ii) bicyclists;

5.6 (iii) vulnerable road users;

5.7 (iv) the motoring public; and

5.8 (v) fire, police, and emergency service providers.

5.9 **EFFECTIVE DATE.** This section is effective July 1, 2025, for county state-aid roadway
5.10 projects on or after that date.

5.11 Sec. 4. Minnesota Statutes 2024, section 162.09, is amended by adding a subdivision to
5.12 read:

5.13 Subd. 1a. **Local design control.** (a) A political subdivision may use a roadway design
5.14 that is different than the design rules adopted and promulgated by the commissioner if the
5.15 political subdivision adopts, by resolution, a qualifying alternative roadway design standard.
5.16 A political subdivision that adopts a qualifying alternative design standard is solely
5.17 responsible for ensuring that the design or designs meet the adopted standard. The
5.18 commissioner must forgo review of geometric designs, except for the review of design
5.19 standards for the vertical clearances for underpasses in Minnesota Rules, part 8820.2500,
5.20 for municipal state-aid roadway projects in a city or county adopting alternative design
5.21 standards for that project. If the county where a municipal state-aid project is located has
5.22 adopted an alternative design standard for a past roadway design project in that city, a city
5.23 may elect to use the same alternative design standard for the geometric design of a municipal
5.24 state-aid project. For purposes of this subdivision, "qualifying alternative roadway design
5.25 standard" includes any of the following publications:

5.26 (1) the latest edition of the Department of Transportation Facility Design Guide or
5.27 successor document;

5.28 (2) the American Association of State Highway and Transportation Officials' (AASHTO)
5.29 A Policy on Geometric Design Highways and Streets or other AASHTO design guides
5.30 formally recognized by the Federal Highway Administration;

(3) the Institute of Transportation Engineers' Designing Walkable Urban Thoroughfares: A Context Sensitive Approach and Implementing Context Sensitive Design Handbook;

(4) the National Association of City Transportation Officials' (NACTO) Urban Street Design Guide and other NACTO design guides formally recognized by the Federal Highway Administration;

(5) the Global Designing Cities Initiative's (GDCI) Global Street Design Guide and Designing Streets for Kids supplement; or

(6) any other design guide approved or recognized by the Federal Highway Administration.

(b) The commissioner, Metropolitan Council, or any other metropolitan planning organization in this state must not require a political subdivision that adopts a qualifying alternative design standard to meet minimum state-aid geometric design standards for state-funded or federally funded municipal state-aid roadway projects.

(c) The commissioner may require a resolution by a political subdivision adopting a qualifying alternative roadway design under this section that indemnifies, saves, and holds harmless the state and its agents of and from claims, demands, actions, or causes of action arising out of by reason adopting the alternative design standard. The political subdivision must further agree to defend at its sole cost and expense any action or proceeding begun for asserting any claim of whatever character against the state arising as a result of adopting the qualifying alternative roadway design.

(d) A political subdivision adopting a qualifying alternative design standard is exempt from municipal liability claims as provided under section 466.03, subdivision 5.

EFFECTIVE DATE. This section is effective July 1, 2025, for municipal state-aid roadway projects on or after that date.

Sec. 5. Minnesota Statutes 2024, section 162.09, subdivision 3a, is amended to read:

Subd. 3a. **Variances from rules and engineering standards.** (a) The commissioner may grant variances from the rules and from the engineering standards developed pursuant to section 162.13, subdivision 2. A political subdivision in which a municipal state-aid street is located or is proposed to be located may submit a written request to the commissioner for a variance for that street. The commissioner ~~shall~~ must comply with section 174.75, subdivision 5, in evaluating a variance request related to a complete streets project. A political subdivision must not be required to seek a variance from municipal state-aid design

standards if the proposed deviation from rules is designed in accordance with a qualifying alternative roadway design guide provided in subdivision 1a.

(b) The commissioner may grant or deny the variance within 30 days of receiving the variance request. If the variance is denied, the political subdivision may request, within 30 days of receiving notice of denial, and ~~shall~~ must be granted a contested case hearing. The commissioner must use the criteria set forth in subdivision 3b to evaluate the variance request. The commissioner must give special consideration to proposed modifications for safety considerations if the proposed design is intended to increase the safety of nonmotorized transportation to and from a school.

(c) If the commissioner denies a variance, the commissioner must notify the chairs and ranking minority members of the legislative committees with jurisdiction over transportation and provide justification for denying the variance within 30 days of notifying the political subdivision of the denial. The justification must include the commissioner's reasoning for the denial, the recommendation of the advisory committee on variances, and the reasoning used by the committee to approve or deny the variance.

~~(e)~~ (d) For purposes of this subdivision, "political subdivision" includes (1) an agency of a political subdivision which has jurisdiction over parks, and (2) a regional park authority.

(e) The commissioner must not require a political subdivision to seek a variance under this section from the design rules for:

(1) narrowing lanes from 11 feet to ten feet for roadways in an urban or suburban context, except where specifically prohibited in adopted state-aid rules;

(2) designs allowed in the current Department of Transportation Facility Design Guide or successor document for roadways of similar context;

(3) designs allowed by current Department of Transportation trunk highway standards for roadways of similar context; or

(4) any design element in a project funded by the safe routes to school program, except where specifically prohibited in adopted state-aid rules or the current Department of Transportation Facility Design Guide.

(f) The commissioner may require a resolution by the recipient of a variance that indemnifies, saves, and holds harmless the state and its agents and employees of and from claims, demands, actions, or causes of action arising out of or by reason of granting the variance. The recipient of the variance must further agree to defend at its sole cost and

8.1 expense any action or proceeding begun for asserting any claim of whatever character arising
8.2 as a result of granting the variance.

8.3 **EFFECTIVE DATE.** This section is effective July 1, 2025, for municipal state-aid
8.4 roadway projects on or after that date.

8.5 Sec. 6. Minnesota Statutes 2024, section 162.09, is amended by adding a subdivision to
8.6 read:

8.7 Subd. 3b. **Variance format.** To submit a formal request for a variance from municipal
8.8 state-aid design rules, a political subdivision must submit a written request to the
8.9 commissioner. The written request must be in the form of an adopted resolution. The request
8.10 must:

8.11 (1) identify the project by location and termini;

8.12 (2) cite the specific part or standard for which the variance is requested from municipal
8.13 state-aid design rules;

8.14 (3) describe the proposed modification;

8.15 (4) describe the economic, social, safety, and environmental impacts that may result
8.16 from the requested variance;

8.17 (5) identify the effectiveness of the project in eliminating an existing and projected
8.18 deficiency in the transportation system, including identifying and citing whether the existing
8.19 roadway's design meets:

8.20 (i) current Department of Transportation Facility Design Guide or successor material
8.21 criteria for a similar road context; or

8.22 (ii) a recognized or approved Federal Highway Administration design guide standard
8.23 for a similar road context;

8.24 (6) identify effects on adjacent lands;

8.25 (7) identify the number of persons affected; and

8.26 (8) identify safety considerations as they apply to:

8.27 (i) pedestrians;

8.28 (ii) bicyclists;

8.29 (iii) vulnerable road users;

8.30 (iv) the motoring public; and

9.1 (v) fire, police, and emergency service providers.

9.2 **EFFECTIVE DATE.** This section is effective July 1, 2025, for municipal state-aid
9.3 roadway projects on or after that date.

9.4 Sec. 7. **[162.095] ADVISORY COMMITTEE ON DESIGN VARIANCES.**

9.5 Subdivision 1. **Establishment.** An advisory committee on design variances is established
9.6 to investigate and determine a recommendation for each variance submitted under sections
9.7 162.02, subdivision 3a, and 162.09, subdivision 3a.

9.8 Subd. 2. **Membership; legislators.** (a) The advisory committee on design variances
9.9 called by the commissioner under subdivision 3 must consist of the following members:

9.10 (1) two members of the senate, one appointed by the senate majority leader and one
9.11 appointed by the senate minority leader;

9.12 (2) two members of the house of representatives, one appointed by the speaker of the
9.13 house and one appointed by the house minority leader;

9.14 (3) not more than two county highway engineers, only one of whom may be from a
9.15 county containing a city of the first class;

9.16 (4) not more than two city engineers, only one of whom may be from a city of the first
9.17 class;

9.18 (5) not more than two county officials, only one of whom may be from a county
9.19 containing a city of the first class;

9.20 (6) not more than two officials of an urban municipality, only one of whom may be from
9.21 a city of the first class;

9.22 (7) not more than two representatives of the Office of Transit and Active Transportation
9.23 in the Department of Transportation, one of whom must be an engineer; and

9.24 (8) one representative from the State Aid for Local Transportation Office in the
9.25 Department of Transportation with experience in project design and the safety factors
9.26 specified in sections 162.02, subdivision 3c, and 162.09, subdivision 3b.

9.27 (b) The committee must have at least six elected officials, including the four legislators
9.28 in paragraph (a), clauses (1) and (2). No legislator may serve on the advisory committee on
9.29 design variances if the proposed project is located within the legislator's district. No elected
9.30 or appointed official that represents a political subdivision may serve on the committee.

(c) The committee must have at least one member but not more than 12 members from a metropolitan area as defined in section 473.121, subdivision 2, as well as cities with a population over 50,000 according to the most recent federal census.

Subd. 3. **Operating procedure; open meeting law.** (a) The advisory committee must meet at the call of the commissioner, at which time the committee must be instructed as to the committee's responsibilities by a designee of the commissioner. The members of the advisory committee must elect a chair from the members of the group at the initial meeting and may set bylaws and procedures to investigate the requested variance.

(b) An advisory committee organized under this section is subject to the Minnesota Open Meeting Law under chapter 13D.

Subd. 4. **Factors considered.** The advisory committee must make a recommendation for a variance based on criteria set forth in sections 162.02, subdivision 3c, and 162.09, subdivision 3b. The advisory committee must give special consideration to safety if the proposed project design is intended to increase the safety of nonmotorized transportation to and from a school. The advisory committee may not recommend to deny a variance for a project seeking to narrow lanes from 11 feet to ten feet for roadways in an urban or suburban context, except where specifically prohibited in adopted state-aid rules.

Subd. 5. **Recommendation.** After considering all data pertinent to the requested variance, the advisory committee must recommend to the commissioner approval or denial of the request. If the committee denies the variance, the committee must provide specific reasoning for the denial and identify the design standard used to evaluate the denial.

Subd. 6. **Administration.** Upon request of the advisory committee, the commissioner must provide meeting space, technical support, and administrative services for the group.

Subd. 7. **Legislative report.** By January 15 of each even-numbered year, the commissioner of transportation must submit a report to the chairs and ranking minority members of the legislative committees with jurisdiction over transportation policy and finance. The report must summarize the activities of any advisory committee on variances from the prior two years, identify the committees' analysis and findings for each variance approved or denied, identify whether the commissioner and the advisory committee came to a different decision on a requested variance and identify the reasons for the difference, and provide recommendations on improvements to the advisory committee.

EFFECTIVE DATE. This section is effective July 1, 2025, for state-aid design variances sought on or after that date.

11.1 Sec. 8. Minnesota Statutes 2024, section 162.155, is amended to read:

11.2 **162.155 RULEMAKING.**

11.3 ~~(a) The commissioner shall adopt rules setting forth the criteria to be considered by the~~
11.4 ~~commissioner in evaluating requests for variances under sections 162.02, subdivision 3a~~
11.5 ~~and 162.09, subdivision 3a. The rules must include, but are not limited to, economic,~~
11.6 ~~engineering and safety guidelines.~~

11.7 ~~(b)~~ (a) The commissioner shall adopt rules establishing the engineering standards for
11.8 cost estimation under sections 162.07, subdivision 2, and 162.13, subdivision 2.

11.9 ~~(c)~~ (b) The rules adopted by the commissioner under this section, and sections 162.02;
11.10 162.07, subdivision 2; 162.09; and 162.13, subdivision 2, are exempt from the rulemaking
11.11 provisions of chapter 14. The rules are subject to section 14.386, except that, notwithstanding
11.12 paragraph (b) of that section, the rules continue in effect until repealed or superseded by
11.13 other law or rule.

11.14 Sec. 9. **REPEALER.**

11.15 Minnesota Rules, parts 8820.3300, subparts 1, 1a, 3, and 4; and 8820.3400, are repealed.

8820.3300 VARIANCE.

Subpart 1. **Written requests.** A formal request by a political subdivision for a variance from this chapter must:

- A. be submitted to the commissioner in writing in the form of a resolution;
- B. identify the project by location and termini; and
- C. cite the specific part or standard for which the variance is requested and describe the modification proposed.

Subp. 1a. **Additional information.** Additional information needed:

- A. index map;
- B. typical section:
 - (1) inplace section;
 - (2) proposed section;
- C. reasons for the request;
- D. the economic, social, safety, and environmental impacts which may result from the requested variance;
- E. effectiveness of the project in eliminating an existing and projected deficiency in the transportation system;
- F. effect on adjacent lands;
- G. number of persons affected; and
- H. safety considerations as they apply to:
 - (1) pedestrians;
 - (2) bicyclists;
 - (3) motoring public; and
 - (4) fire, police, and emergency units.

Subp. 3. **Decision.** The commissioner shall base the decision on the criteria in part 8820.3400, subpart 3 and shall notify the political subdivision in writing of the decision. The commissioner may require a resolution by the recipient of the variance that indemnifies, saves, and holds harmless the state and its agents and employees of and from claims, demands, actions, or causes of action arising out of or by reason of the granting of the variance. The recipient of the variance shall further agree to defend at its sole cost and expense any action or proceeding begun for asserting any claim of whatever character arising as a result of the granting of the variance.

Subp. 4. **Contested case hearing.** Any variance objected to in writing or denied by the commissioner is subject to a contested case hearing as required by law.

8820.3400 ADVISORY COMMITTEE ON VARIANCES.

Subpart 1. **Appointment.** The commissioner may appoint a committee to serve as required to investigate and determine a recommendation for each variance. No elected or appointed official that represents a political subdivision requesting a variance may serve on the committee.

Subp. 2. **Membership.** The committee shall consist of any five of the following persons: not more than two county highway engineers, only one of whom may be from a county containing a city of the first class; not more than two city engineers, only one of whom may be from a city of the first class; not more than two county officials, only one of whom may be from a county containing a city of the first class; and not more than two

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officials of an urban municipality, only one of whom may be from a city of the first class. The committee must have at least two elected officials as members. The committee shall have at least one member but not more than four members from a metropolitan area, as defined in Minnesota Statutes, section 473.121, subdivision 2, as well as cities with a population of over 50,000 according to the most recent census.

Subp. 3. **Operating procedure; factors considered.** The committee shall meet on call from the commissioner at which time they must be instructed as to their responsibilities by a designee of the commissioner, shall elect a chairperson, and shall establish their own procedure to investigate the requested variance.

The committee shall consider the:

- A. economic, social, safety, and environmental impacts which may result from the requested variance;
- B. effectiveness of the project in eliminating an existing and projected deficiency in the transportation system;
- C. effect on adjacent lands;
- D. number of persons affected;
- E. effect on future maintenance;
- F. safety considerations as they apply to pedestrians, bicyclists, motoring public, and fire, police, and emergency units; and
- G. effect that the rule and standards may have in imposing an undue burden on a political subdivision.

Subp. 4. **Recommendation.** The committee after considering all data pertinent to the requested variance shall recommend to the commissioner approval or disapproval of the request.