



May 8, 2022

Re: LMC Comments on SF 4062

Dear Chair Ingebrigtsen, Chair Hansen, and members of the Environment and Natural Resources Omnibus bill conference committee:

The League of Minnesota Cities, representing 837 of Minnesota's 854 cities, appreciates the opportunity to submit comments related to the provisions included in the House and Senate environment and natural resources omnibus budget and policy issues included in SF 4062. Many of the provisions in this bill have impacts on Minnesota cities and how they provide services and governance to their residents and businesses.

As a disclaimer, our comments on overall funding levels and statewide accessibility to resources cannot be accurately made based only on this committee's work. Many of the programs proposed in this bill have portions of the programs that will be funded in other omnibus bills related to health, climate and energy, taxes, and capital investment. The League will submit comments to the relevant chairs and committees once the other parts of the packages can be evaluated.

#### **Article 1 - Environment and Natural Resources Appropriations**

The supplemental budget article contains numerous appropriations that could apply to environmental protection and restoration in Minnesota cities. Items of particular interest include:

- **SCORE funds (R2- Art1, Senate side, ll. 3.1-3.3):** Increased SCORE grant funding is badly needed. The funds go to counties, initially, but are often passed through to cities to implement the work. *The League supports the additional funding.*
- **Local Flood Resiliency (R3-Art1, House side, ll. 2.31-3.12):** Adapting city stormwater systems to the dramatic changes occurring with rainfall frequency and intensity adds even more strain and cost to city stormwater management efforts. Existing state funding options for wastewater or non-point water projects do not match the needs of these programs well, and the projects seldom compete favorably with the sort of projects traditionally funded through PFA and BWSR. *The League supports establishing this resiliency grant program.*
- **PFAS Contamination Prevention (R4-Art1, House side, ll. 4.5-4.14):** Funds to identify sources of PFAS and prevent or reduce their release are extremely important as Minnesota cities work to keep PFAS compounds out of municipal water, wastewater, stormwater, and solid waste. To that end, we respectfully request that you include the House language and we join the Minnesota Municipal Utility Association and the Coalition of Greater Minnesota Cities in suggesting it be amended to specify that \$600,000 of the \$2 million in agency funding for PFAS related efforts be designated to cover the cost of the proposed wastewater monitoring. *The League supports this appropriation with an amendment to use some of the funds to cover monitoring costs.*
- **State Assumption of Section 404 permitting (R9-Art1, Senate side, ll. 4.22-5.20):** *The League supports the completion of the process for the state to assume delegation of authority to handle permitting under section 404 of the federal Clean Water Act.*

- **Replacement of Trees Lost to Emerald Ash Borer (R14-Art1, House side, ll. 12.18-13.8):** Additional funds for managing emerald ash borer are desperately needed in cities across the entire state as the problem spreads in urban forests. Limitations in the eligibility requirements for these funds, however, will limit where money can be used. *The League generally supports this appropriation, but is concerned that the criteria described will significantly reduce the availability of funds to communities with serious needs.*
- **Lawns to Legumes (R20-Art1, House side, ll.18.4-18.8):** The League supports funding for the lawns-to-legumes program as the appropriate way for the state to promote natural and pollinator-friendly landscaping in urban settings. We have expressed opposition to related language in the State Government and Elections omnibus bill to language mandating all cities to allow natural landscapes on all parcels within their boundaries. While we appreciate the intent of that legislation to expand the ability of property owners to opt for properly managed natural landscaping, we feel that existing procedures for local elected officials to propose, discuss, and decide changes to local ordinance related to property and landscaping are the best way to deal with these issues. *The League supports funding for Lawns to Legumes, but opposes making it mandatory for cities to allow natural landscaping on all parcels.*
- **On-Land Water Storage and Treatment (R20-Art1, House side, ll. 18.13-18.31):** *The League supports funding for permanent easements and contracts for projects to store and treat water to achieve water quality improvements.*
- **Local Planning Grants (R21-Art1, House side, ll.19.31-20.2):** *The League supports funds to help cities plan to mitigate the effects of the higher intensity rain events and changing climate impacts.*
- **Lead Service Line Replacement (R23-Art1, House side, ll.21.12-22.2):** *The League supports state funds to help cover the replacement of private segments of water lines needing replacement due to lead content.*

#### Article 2 – Environment and Natural Resources Policy

- **Mandatory EAW for Drainage (R37/38/39/40-Art2, Senate side, ll. 54.18-58.17):** *The League opposes the proposed change found on lines 58.15-15.17 to the mandatory environmental review categories.*
- **PFAS Monitoring Plan Expenses (R52-Art2, Senate side, ll. 71.20-72.1):** As the state and federal government work to determine regulations, guidelines, and best management practices related to PFAS compounds, cities agree that there will be value in doing some work to establish baseline information. Requiring wastewater systems to pay the cost for that work, however, despite there not being permit conditions related to these compounds at this time, is not warranted. The state should pay the costs of doing this monitoring as part of their effort to become properly informed as regulators to move forward with their work. *The League supports this limitation on the state passing background monitoring expenses on to permit holders.*
- **City Pesticide Authority (R54/55-Art2, House side, ll. 25.3-25.30):** *The League supported the adjustment to city pesticide authority made in these sections last session and continues to request that these changes be made.*
- **Lawns to Legumes Program Establishment (R70-Art2, House side, ll.45.29-46.5):** *The League supports establishing the lawns-to-legumes program as an ongoing state program.*
- **Expanded DNR Enforcement Authority (R72/73/74/75/76/77-Art2, House side, ll. 48.12-49.10 and 50.1-54.13):** These sections create broad new enforcement authority for the DNR over water appropriations. While we understand the DNR's need to deal with noncompliance by unpermitted water users and those who no longer need a permit and have not completed remediation of non-compliance issues, city water systems have no history of non-compliance requiring such enforcement powers being extended to their permits. The expansion of these powers also opens the

possibility that courts could force the department to use these authorities against cities even if the department had not found that to be appropriate or necessary. *The League opposes these changes.*

- **Mandatory Public Hearing (R73-Art2, House side, ll. 49.11-49.21):** This language creates a new public hearing requirement for water appropriation permits and water plans, which must be regularly renewed by cities. The size targeted by this change makes cities the primary affected permit holders. These permits are already posted for public comment and we are aware of no case of the public being uninformed of city water permits to the point that a new hearing mandate is warranted. *The League opposes this change.*
- **Duty to Inform of Spills (R77/78-Art2, House side, ll. 54.14-55.4):** City organizations and wastewater operators worked on this language with the MPCA to address concerns they had with current release notification requirements. The proposed changes should be helpful to the public and manageable for city utilities during emergency situations. *The League supports this language.*
- **PFAS in Products (R112-R120, Art2, House side, ll100.13-109.31):** PFAS compounds are a major emerging concern for public health and the environment. Treatment is not a feasible option for removal of these compounds from wastewater effluent and solids, stormwater, or solid waste and is a tremendously expensive means of dealing with them in drinking water. While the League has not specifically assessed the current science on the specific products included in these sections, where sound science exists, *League policies support removal of pollutants prior to them entering the waste stream as the most efficient and appropriate way to reduce water quality impacts.*
- **Mandatory PFAS Water Quality Standards (R120-Art2, House side, ll. 110.1-110.5):** The League has opposed this mandatory rule completion process in previous sessions, primarily due to the fact that the federal review to set appropriate water quality standards for these compounds is still underway. While that remains a concern, the timing is becoming less likely to be problematic. *The League no longer opposes the rules being required, but recommends removal of the mandated completion date to prevent the state from ending up in a timing conflict with federal water quality standard development.*
- **Statutory Health Risk Limit for PFOS (R120/121-Art2, House side, ll. 110.6-110.12):** The League does not believe it is good policy to set environmental or public health standards in statute, as that opens them up to future politicized adjustment. Development of these limits should follow the thorough evidence-based public hearing process of our administrative rules process. *The League opposes placing the PFOS health risk level in statute.*

With these sections, or any others where input or discussion of city impacts and positions is desired, we are ready to work with the chair and the future conference committee and are happy to respond to any questions about our testimony. Thank you for your time and attention to these important matters and to our comments.

Sincerely,



Craig A. Johnson  
Intergovernmental Relations Representative  
League of Minnesota Cities