

COMMITTEE ACTION ON A BILL

[For use when taking action on the green jackets]

Committee/Division/Subcommittee: Subdivision Water

Chairperson: Fischer

CLA: Spencer Crose Room#: _____ Ext: 7-8129

H.F. 875 S.F. _____ ENGROSSMENT _____ Hearing date: 2/25/19

DIVISION/SUBCOMMITTEE ACTION ONLY

- ☒ Recommended the bill be returned to the Committee on Environment Finance Division without amendment
- ☐ Recommended the bill, as amended, be returned to the Committee on _____
- ☐ Recommended the bill be returned to the Committee on _____ with a recommended re-referral to the Division on _____
- ☐ Recommended the bill, as amended, be returned to the Committee on _____ with a recommended re-referral to the Division on _____

COMMITTEE ACTION

- ☐ Unamended and recommended to be re-referred to the committee on _____
- ☐ Amended and re-referred to the committee on _____

GENERAL REGISTER

- ☐ Recommended the bill be placed on the General Register (unamended).
- ☐ Recommended the bill be amended and placed on the General Register.

WITHOUT RECOMMENDATION:

- ☐ Reported to the House without recommendation (unamended).
- ☐ Reported to the House, as amended, but without further recommendation.
- ☐ Be re-referred to the Committee on _____ but without further recommendation.
- ☐ Be re-referred, as amended, to the Committee on _____ but without further recommendation.

Non amended action: attach one copy of bill

Amended action: Attach two (2) copies of bill and one copy of each adopted amendment(s), numbered in the order they were adopted. Amendment(s) should be clearly marked "ADOPTED."

Division action form on colored paper

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in alternative formats upon request

State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 875

02/07/2019 Authored by Fischer, Torkelson, Poston and Brand
The bill was read for the first time and referred to the Committee on Environment and Natural Resources Policy
02/14/2019 Adoption of Report: Re-referred to the Committee on Ways and Means

1.1 A bill for an act

1.2 relating to natural resources; modifying Clean Water Legacy Act; providing for
1.3 coordinated watershed management; amending Minnesota Statutes 2018, sections
1.4 103B.3369, subdivisions 5, 9; 103B.801, subdivisions 2, 5; 114D.15, subdivisions
1.5 7, 11, 13, by adding subdivisions; 114D.20, subdivisions 2, 3, 5, 7, by adding
1.6 subdivisions; 114D.26; 114D.35, subdivisions 1, 3; proposing coding for new law
1.7 in Minnesota Statutes, chapter 114D.

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

1.9 Section 1. Minnesota Statutes 2018, section 103B.3369, subdivision 5, is amended to read:

1.10 Subd. 5. **Financial assistance.** ~~A base grant may be awarded to a county that provides~~
1.11 ~~a match utilizing a water implementation tax or other local source. A water implementation~~
1.12 ~~tax that a county intends to use as a match to the base grant must be levied at a rate sufficient~~
1.13 ~~to generate a minimum amount determined by the board.~~ The board may award
1.14 performance-based, watershed-based, or program-based grants or other financial assistance
1.15 to local units of government that are responsible for implementing elements of applicable
1.16 portions of watershed management plans, comprehensive plans, local water management
1.17 plans, or comprehensive watershed management plans, developed or amended, adopted and
1.18 approved, according to chapter 103B, 103C, or 103D. Upon request by a local government
1.19 unit, the board may also award performance-based grants to local units of government to
1.20 carry out TMDL implementation plans as provided in chapter 114D, if the TMDL
1.21 implementation plan has been incorporated into the local water management plan according
1.22 to the procedures for approving comprehensive plans, watershed management plans, local
1.23 water management plans, or comprehensive watershed management plans under chapter
1.24 103B, 103C, or 103D, or if the TMDL implementation plan has undergone a public review
1.25 process. Notwithstanding section 16A.41, the board may award performance-based,

3.1 (6) serve as a substitute for a comprehensive plan, local water management plan, or
3.2 watershed management plan developed or amended, approved, and adopted, according to
3.3 this chapter or chapter 103C or 103D.

3.4 Sec. 4. Minnesota Statutes 2018, section 103B.801, subdivision 5, is amended to read:

3.5 Subd. 5. **Timelines; administration.** (a) The board shall develop and adopt, by June
3.6 30, 2016, a transition plan for development, approval, adoption, and coordination of plans
3.7 consistent with section 103A.212. The transition plan must include a goal of completing
3.8 statewide transition to comprehensive watershed management plans by 2025. The
3.9 metropolitan area may be considered for inclusion in the transition plan. The board may
3.10 amend the transition plan no more than once every two years.

3.11 (b) The board may use the authority under section 103B.3369, subdivision 9, to support
3.12 development or implementation of a comprehensive watershed management plan under this
3.13 section.

3.14 Sec. 5. Minnesota Statutes 2018, section 114D.15, is amended by adding a subdivision to
3.15 read:

3.16 Subd. 3a. **Comprehensive local water management plan.** "Comprehensive local water
3.17 management plan" has the meaning given under section 103B.3363, subdivision 3.

3.18 Sec. 6. Minnesota Statutes 2018, section 114D.15, is amended by adding a subdivision to
3.19 read:

3.20 Subd. 3b. **Comprehensive watershed management plan.** "Comprehensive watershed
3.21 management plan" has the meaning given under section 103B.3363, subdivision 3a.

3.22 Sec. 7. Minnesota Statutes 2018, section 114D.15, subdivision 7, is amended to read:

3.23 Subd. 7. **Restoration.** ~~"Restoration" means actions, including effectiveness monitoring,~~
3.24 ~~that are taken to pursue, achieve, and maintain water quality standards for impaired waters~~
3.25 ~~in accordance with a TMDL that has been approved by the United States Environmental~~
3.26 ~~Protection Agency under federal TMDL requirements.~~

3.27 Sec. 8. Minnesota Statutes 2018, section 114D.15, subdivision 11, is amended to read:

3.28 Subd. 11. **TMDL implementation plan.** "TMDL implementation plan" means a
3.29 document detailing restoration strategies or activities needed to meet the approved TMDL's
3.30 TMDL pollutant load allocations for point and nonpoint sources. This could include a

5.1 (8) to support effective measures to restore degraded groundwater.

5.2 Sec. 11. Minnesota Statutes 2018, section 114D.20, subdivision 3, is amended to read:

5.3 Subd. 3. **Implementation policies.** The following policies must guide the implementation
5.4 of this chapter:

5.5 (1) develop regional and, multiple pollutant, or watershed TMDLs and TMDL
5.6 implementation plans, and TMDLs and TMDL implementation plans for multiple pollutants
5.7 or WRAPSSs, where reasonable and feasible;

5.8 (2) maximize use of available organizational, technical, and financial resources to perform
5.9 sampling, monitoring, and other activities to identify degraded groundwater and impaired
5.10 waters, including use of citizen monitoring and citizen monitoring data used by the Pollution
5.11 Control Agency in assessing water quality that meets the requirements in Appendix D of
5.12 the Volunteer Surface Water Monitoring Guide, Minnesota established by the commissioner
5.13 of the Pollution Control Agency (2003);

5.14 (3) maximize opportunities for restoration of degraded groundwater and impaired waters,
5.15 by prioritizing and targeting of available programmatic, financial, and technical resources
5.16 and by providing additional state resources to complement and leverage available resources;

5.17 (4) use existing regulatory authorities to achieve restoration for point and nonpoint
5.18 sources of pollution where applicable, and promote the development and use of effective
5.19 nonregulatory measures to address pollution sources for which regulations are not applicable;

5.20 (5) use restoration methods that have a demonstrated effectiveness in reducing
5.21 impairments and provide the greatest long-term positive impact on water quality protection
5.22 and improvement and related conservation benefits while incorporating innovative approaches
5.23 on a case-by-case basis;

5.24 (6) identify for the legislature any innovative approaches that may strengthen or
5.25 complement existing programs;

5.26 (7) identify and encourage implementation of measures to prevent surface waters from
5.27 becoming impaired and to improve the quality of waters that are listed as impaired but have
5.28 no approved TMDL addressing the impairment using the best available data and technology,
5.29 and establish and report outcome-based performance measures that monitor the progress
5.30 and effectiveness of protection and restoration measures;

5.31 (8) monitor and enforce cost-sharing contracts and impose monetary damages in an
5.32 amount up to 150 percent of the financial assistance received for failure to comply; and

7.1 Sec. 14. Minnesota Statutes 2018, section 114D.20, is amended by adding a subdivision
7.2 to read:

7.3 Subd. 8. **Alternatives; TMDL, TMDL implementation plan, or WRAPS.** (a) If the
7.4 commissioner of the Pollution Control Agency determines that a comprehensive watershed
7.5 management plan or comprehensive local water management plan contains information that
7.6 is sufficient and consistent with guidance from the United States Environmental Protection
7.7 Agency under section 303(d) of the federal Clean Water Act, the commissioner may submit
7.8 the plan to the Environmental Protection Agency according to federal TMDL requirements
7.9 as an alternative to developing a TMDL.

7.10 (b) A TMDL implementation plan or a WRAPS, or portions thereof, are not needed for
7.11 waters or watersheds when the commissioner of the Pollution Control Agency determines
7.12 that a comprehensive watershed management plan, a comprehensive local water management
7.13 plan, or a statewide or regional strategy published by the Pollution Control Agency meets
7.14 the definition in section 114D.15, subdivision 11 or 13.

7.15 (c) The commissioner of the Pollution Control Agency may request that the Board of
7.16 Water and Soil Resources conduct an evaluation of the implementation efforts under a
7.17 comprehensive watershed management plan or comprehensive local water management
7.18 plan when the commissioner makes a determination under paragraph (b). The board must
7.19 conduct the evaluation in accordance with section 103B.102.

7.20 (d) The commissioner of the Pollution Control Agency may amend or revoke a
7.21 determination made under paragraph (a) or (b) after considering the evaluation conducted
7.22 under paragraph (c).

7.23 Sec. 15. Minnesota Statutes 2018, section 114D.20, is amended by adding a subdivision
7.24 to read:

7.25 Subd. 9. **Coordinating municipal and local water quality activities.** A project, practice,
7.26 or program for water quality improvement or protection that is conducted by a watershed
7.27 management organization or a local government unit with a comprehensive watershed
7.28 management plan or other water management plan approved according to chapter 103B,
7.29 103C, or 103D may be considered by the commissioner of the Pollution Control Agency
7.30 as contributing to the requirements of a storm water pollution prevention plan (SWPPP) for
7.31 a municipal separate storm sewer systems (MS4) permit unless the project, practice, or
7.32 program was previously documented as contributing to a different SWPPP for an MS4
7.33 permit.

(8) (5) contain an implementation table of strategies and actions that are capable of cumulatively achieving needed pollution load reductions for point and nonpoint sources, including identifying:

(i) water quality parameters of concern;

(ii) current water quality conditions;

(iii) water quality goals, strategies, and targets by parameter of concern; and

(iv) strategies and actions by parameter of concern and an example of the scale of adoptions needed for each; with a timeline to meet the water quality restoration or protection goals of this chapter.

(v) a timeline for achievement of water quality targets;

(vi) the governmental units with primary responsibility for implementing each watershed restoration or protection strategy; and

(vii) a timeline and interim milestones for achievement of watershed restoration or protection implementation actions within ten years of strategy adoption.

Subd. 1a. **Coordination.** To ensure effectiveness, efficiency, and accountability in meeting the goals of this chapter, the commissioner of the Pollution Control Agency, in consultation with the Board of Water and Soil Resources and local government units, must coordinate the schedule, budget, scope, and use of a WRAPS and related documents and processes.

Subd. 2. **Reporting.** Beginning July 1, 2016, and every other year thereafter, the commissioner of the Pollution Control Agency must report on its the agency's website the progress toward implementation milestones and water quality goals for all adopted TMDLs and, where available, WRAPSs.

Subd. 3. **Timelines; administration.** Each year, (a) The commissioner of the Pollution Control Agency must complete WRAPSs for at least ten percent of watershed restoration and protection strategies for the state's major watersheds. WRAPS shall be by June 30, 2023, unless the commissioner determines that a comprehensive watershed management plan or comprehensive local water management plan, in whole or in part, meets the definition in section 114D.15, subdivision 11 or 13. As needed, the commissioner must update the strategies, in whole or in part, after consulting with the Board of Water and Soil Resources and local government units.

11.1 ~~resources~~ this chapter. Public agencies ~~shall be~~ are responsible for implementing the
11.2 strategies.

11.3 Sec. 19. **[114D.47] NONPOINT FUNDING ALTERNATIVE.**

11.4 Notwithstanding section 114D.50, subdivision 3a, the Board of Water and Soil Resources
11.5 may, by board order, establish alternative timelines or content for the priority funding plan
11.6 for nonpoint sources under section 114D.50, subdivision 3a, and may use information from
11.7 comprehensive watershed management plans or comprehensive local water management
11.8 plans to estimate or summarize costs.