

1.1 moves to amend H.F. No. 3836 as follows:

1.2 Page 1, after line 7, insert:

1.3 **"ARTICLE 1**

1.4 **ACCELERATED BUFFER STRIP IMPLEMENTATION"**

1.5 Page 6, after line 27, insert:

1.6 **"ARTICLE 2**

1.7 **ACCELERATED RUNOFF AND SEDIMENT DELIVERY OPTION**

1.8 Section 1. Minnesota Statutes 2016, section 103E.005, subdivision 28a, is amended to
1.9 read:

1.10 ~~Subd. 28a. **Secretary.** "Secretary" means the secretary of the watershed district that~~
1.11 ~~serves as the drainage authority for the applicable drainage system.~~

1.12 Sec. 2. Minnesota Statutes 2016, section 103E.005, is amended by adding a subdivision
1.13 to read:

1.14 Subd. 28b. **Relative runoff.** "Relative runoff" includes the surface and subsurface runoff
1.15 potential from a specific property compared on an equitable basis to all other properties
1.16 contributing runoff to the drainage system.

1.17 Sec. 3. Minnesota Statutes 2016, section 103E.005, is amended by adding a subdivision
1.18 to read:

1.19 Subd. 28c. **Secretary.** "Secretary" means the secretary of the watershed district that
1.20 serves as the drainage authority for the applicable drainage system.

2.1 Sec. 4. Minnesota Statutes 2016, section 103E.005, is amended by adding a subdivision
2.2 to read:

2.3 Subd. 28d. **Relative sediment delivery.** "Relative sediment delivery" means the sediment
2.4 delivery potential from a specific property compared on an equitable basis to all other
2.5 properties contributing runoff to the drainage system.

2.6 Sec. 5. Minnesota Statutes 2016, section 103E.095, is amended to read:

2.7 **103E.095 APPEAL FROM ORDERS OF AN ORDER DISMISSING OR**
2.8 **ESTABLISHING A DRAINAGE SYSTEMS PROJECT, OR OF A REPAIR COST**
2.9 **APPORTIONMENT REPORT.**

2.10 Subdivision 1. **Notice of appeal.** A party may appeal an order made by the board that
2.11 dismisses drainage project proceedings ~~or~~ establishes or refuses to establish a drainage
2.12 project, or approves a repair cost apportionment report to the district court of the county
2.13 where the drainage proceedings or drainage system repair are pending. The appellant must
2.14 serve notice of the appeal to the auditor or secretary within 30 days after the order is filed.
2.15 ~~After notice of the appeal is served, the appeal may be brought to trial by the appellant or~~
2.16 ~~the drainage authority after notifying the other party at least ten days before the trial date.~~

2.17 Subd. 2. **Trial.** The appeal must be tried by the court without a jury. The court shall
2.18 examine the entire drainage proceeding and related matters and receive evidence to determine
2.19 whether the findings made by the board can be sustained. At the trial the findings made by
2.20 the board are prima facie evidence of the matters stated in the findings, and the board's order
2.21 is prima facie reasonable. If the court finds that the order appealed is lawful and reasonable,
2.22 it shall be affirmed. If the court finds that the order appealed is arbitrary, unlawful, or not
2.23 supported by the evidence, it shall make an order, justified by the court record, to take the
2.24 place of the appealed order or repair cost apportionment report, or remand the order or report
2.25 to the board for further proceedings. After the appeal has been determined by the court, the
2.26 board shall proceed in conformity with the court order.

2.27 Subd. 3. **Determination of benefits and damages after court order.** If the order
2.28 establishing a drainage project is appealed, the trial of appeals related to benefits or damages
2.29 in the drainage proceeding must be stayed until the establishment appeal is determined. If
2.30 the order establishing the drainage project is affirmed, appeals related to benefits and damages
2.31 must then be tried.

2.32 Subd. 4. **Procedure if appeal order establishes drainage project.** If an order refusing
2.33 to establish a drainage project is appealed, and the court, by order, establishes the drainage

3.1 project, the auditor shall give notice by publication of the filed order. The notice is sufficient
3.2 if it refers to the drainage project or system by number or other descriptive designation,
3.3 states the meaning of the order, and states the date the court order was filed. A person may
3.4 appeal the establishment order to the district court as provided in this section.

3.5 Subd. 5. **Appeal of appellate order.** A party aggrieved by a final order or judgment
3.6 rendered on appeal to the district court may appeal as in other civil cases. The appeal must
3.7 be made and perfected within 30 days after the filing of the order or entry of judgment.

3.8 Sec. 6. Minnesota Statutes 2016, section 103E.215, subdivision 5, is amended to read:

3.9 Subd. 5. **Subsequent proceedings.** When a petition and the bond required by section
3.10 103E.202 are filed, the auditor shall present the petition to the board at its next meeting or,
3.11 for a joint county drainage system, to the joint county drainage authority within ten days
3.12 after the petition is filed. The drainage authority shall appoint an engineer to examine the
3.13 drainage system and make an improvement report. The improvement proceedings must be
3.14 conducted under this chapter as provided for the original proceedings for the establishment
3.15 of a drainage project. The benefits and damages determined must be as a result of the
3.16 proposed improvement. ~~Assessments for the repair of the improvement must be based on~~
3.17 ~~the benefits determined for the improvement.~~

3.18 Sec. 7. Minnesota Statutes 2016, section 103E.401, subdivision 4, is amended to read:

3.19 Subd. 4. **Hearing.** At the hearing the drainage authority shall consider the capacity of
3.20 the outlet drainage system. If express authority is given to use the drainage system as an
3.21 outlet, the drainage authority shall state, by order, the terms and conditions for use of the
3.22 established drainage system as an outlet and shall set the amount to be paid as an outlet fee.
3.23 The order must describe the property to be benefited by the drainage system and must state
3.24 the amount of benefits to the property for the outlet. The property benefited is liable for
3.25 repair assessments levied after that time in the drainage system, ~~on the basis of the benefits~~
3.26 ~~as if the benefits had been determined in the order establishing the drainage system in~~
3.27 accordance with section 103E.728.

3.28 Sec. 8. Minnesota Statutes 2016, section 103E.411, subdivision 5, is amended to read:

3.29 Subd. 5. **Benefits and assessments if drainage system established.** If the drainage
3.30 system is established, the drainage authority must determine the amount the municipality
3.31 must pay for the privilege of using the drainage system as an outlet. The amount must be
3.32 paid to the ~~affected counties~~ drainage authority and credited to the account of the drainage

4.1 system used as an outlet. The municipality is liable for all subsequent liens and assessments
4.2 for the repair and maintenance of the drainage system in ~~proportion to the benefits, as though~~
4.3 ~~the benefits were determined in the order establishing the drainage system~~ accordance with
4.4 section 103E.728.

4.5 Sec. 9. Minnesota Statutes 2016, section 103E.615, subdivision 1, is amended to read:

4.6 Subdivision 1. **Municipalities.** Assessments filed ~~for benefits~~ to a municipality are a
4.7 liability of the municipality and are due and payable with interest in installments on
4.8 November 1 of each year as provided in section 103E.611. If the installments and interest
4.9 are not paid on or before November 1, the amount due with interest added as provided in
4.10 section 103E.611 must be extended by the county auditor against all property in the
4.11 municipality that is liable to taxation. A levy must be made and the amount due must be
4.12 paid and collected in the same manner and time as other taxes.

4.13 Sec. 10. Minnesota Statutes 2016, section 103E.615, subdivision 2, is amended to read:

4.14 Subd. 2. **County or state-aid road.** If a public road ~~benefited~~ assessed is a county or
4.15 state-aid road, the assessment filed is against the county and must be paid out of the road
4.16 and bridge fund of the county.

4.17 Sec. 11. Minnesota Statutes 2016, section 103E.615, subdivision 3, is amended to read:

4.18 Subd. 3. **State trunk highway.** An assessment against the state ~~for benefits~~ to trunk
4.19 highways is chargeable to and payable out of the trunk highway fund. The commissioner
4.20 of transportation shall pay assessments from the trunk highway fund after receipt of a
4.21 certified copy of the assessment against the state ~~for benefits~~ to a trunk highway.

4.22 Sec. 12. Minnesota Statutes 2016, section 103E.615, subdivision 5, is amended to read:

4.23 Subd. 5. **State property.** State property, including rural credit property, is assessable
4.24 for benefits received, or repair costs in accordance with section 103E.728. The assessment
4.25 must be paid by the state from funds appropriated and available for drainage assessments
4.26 after the state officer having jurisdiction over the assessed property certifies the assessment
4.27 to the commissioner of management and budget.

4.28 Sec. 13. Minnesota Statutes 2016, section 103E.615, subdivision 7, is amended to read:

4.29 Subd. 7. **Railroad and utility property.** Property owned by a railroad or other utility
4.30 corporation benefited by a drainage project is liable for the assessments ~~of~~ for benefits on

5.1 the property, and for repair costs apportioned in accordance with section 103E.728, as other
5.2 taxable property. From the date the drainage lien is recorded, the amount of the assessment
5.3 with interest is a lien against all property of the corporation within the county. Upon default
5.4 the assessment may be collected by civil action or the drainage lien may be foreclosed by
5.5 action in the same manner as provided by law for the foreclosure of mortgage liens. The
5.6 county where the drainage lien is filed has the right of action against the corporation to
5.7 enforce and collect the assessment.

5.8 Sec. 14. Minnesota Statutes 2016, section 103E.711, subdivision 1, is amended to read:

5.9 Subdivision 1. **Repair cost statement.** For a joint county drainage system the auditor
5.10 of a county that has made repairs may present a repair cost statement at the end of each
5.11 year, or other convenient period after completion, to each affected county. The repair cost
5.12 statement must show the nature and cost of the repairs to the drainage system and must be
5.13 ~~based on the original apportionment of cost following the establishment of the drainage~~
5.14 ~~system~~ apportioned in accordance with section 103E.728. If a board approves the repair
5.15 costs, the amount of the statement must be paid to the county submitting the statement.

5.16 Sec. 15. Minnesota Statutes 2016, section 103E.715, subdivision 4, is amended to read:

5.17 Subd. 4. **Hearing on repair report.** (a) The drainage authority shall make findings and
5.18 order the repair to be made if:

5.19 (1) the drainage authority determines from the repair report and the evidence presented
5.20 that the repairs recommended are necessary for the best interests of the affected property
5.21 owners; or

5.22 (2) the repair petition is signed by the owners of at least 26 percent of the property area
5.23 affected by and assessed for ~~the original construction~~ benefits of the drainage system, and
5.24 the drainage authority determines that the drainage system is in need of repair so that it no
5.25 longer serves its ~~original~~ purpose and the cost of the repair will not exceed the total benefits
5.26 ~~determined in the original drainage system proceeding~~ of record for the drainage system.

5.27 (b) The order must direct the auditor and the chair of the board or, for a joint county
5.28 drainage system, the auditors of the affected counties to proceed and prepare and award a
5.29 contract for the repair of the drainage system. The contract must be for the repair described
5.30 in the repair report and as determined necessary by the drainage authority, and be prepared
5.31 in the manner provided in this chapter ~~for the original drainage system construction~~.

6.1 Sec. 16. Minnesota Statutes 2016, section 103E.715, subdivision 5, is amended to read:

6.2 Subd. 5. **Apportionment of repair cost for joint county drainage system.** For the
6.3 repair of a joint county drainage system, the drainage authority shall, by order, apportion
6.4 the repair cost among affected counties in ~~the same manner required in the original~~
6.5 ~~construction of the drainage system~~ accordance with section 103E.728.

6.6 Sec. 17. Minnesota Statutes 2016, section 103E.725, is amended to read:

6.7 **103E.725 COST OF REPAIR.**

6.8 All fees and costs incurred for proceedings relating to the repair of a drainage system,
6.9 including inspections, engineering, viewing, determination and administration of repair cost
6.10 apportionment, hearings, and publications, as applicable, are costs of the repair ~~and must~~
6.11 ~~be assessed against the property and entities benefited.~~

6.12 Sec. 18. Minnesota Statutes 2016, section 103E.728, subdivision 1, is amended to read:

6.13 Subdivision 1. **Generally.** Except as otherwise provided in this section, the cost of
6.14 repairing a drainage system shall be apportioned:

6.15 (1) pro rata on all property and entities that have been assessed benefits for the drainage
6.16 system ~~except as provided in this section~~ based on an applicable confirmed viewers' report
6.17 of benefits and damages; or

6.18 (2) on all property contributing runoff to the drainage system, based on relative runoff
6.19 and relative sediment delivery in an approved repair cost apportionment report, in accordance
6.20 with subdivision 1a of this section.

6.21 Repair costs apportioned using the method in clause (2) are charges for property contributing
6.22 runoff to the drainage system that shall be considered repair cost assessments in this chapter.

6.23 Sec. 19. Minnesota Statutes 2016, section 103E.728, is amended by adding a subdivision
6.24 to read:

6.25 Subd. 1a. **Relative runoff and relative sediment delivery method for repair cost**
6.26 **apportionment.** (a) When the drainage authority has determined that a drainage system
6.27 repair is necessary, the drainage authority may apportion costs for the repair of a drainage
6.28 system based on relative runoff and relative sediment delivery from any property, public
6.29 road, street, railway, or other utility contributing runoff to the drainage system as provided
6.30 in this subdivision. If this cost apportionment method is used, costs must be determined
6.31 prior to ordering the repair of all or any part of a drainage system as provided in section

7.1 103E.705, subdivision 3, or section 103E.715, subdivision 4, or prior to levying a repair
7.2 fund assessment as provided in section 103E.735, subdivision 1.

7.3 (b) The drainage authority shall appoint one or more persons qualified to use geographic
7.4 information system technology and applicable digital information, including, but not limited
7.5 to, conditioned topographic data, soils and land use data, and property, road, and utility
7.6 corridor identification data, together with appropriate on-site verification, to equitably
7.7 apportion repair costs.

7.8 (c) The person or persons conducting the cost apportionment shall file a repair cost
7.9 apportionment report with the drainage authority explaining in nontechnical language the
7.10 method, data, and interpretations used, and the cost apportionment results. The report shall
7.11 present data and results in a format that individual property owners, political subdivisions,
7.12 and utilities can clearly examine the information applicable to their property, public road,
7.13 street, railway, or other utility, including for each parcel having a separate property
7.14 identification number.

7.15 (d) When a repair cost apportionment report is filed, the drainage authority, in consultation
7.16 with the auditor or secretary, shall set a time, by order, for a hearing on the report not more
7.17 than 30 days after the date of the order. At least 20 days before the hearing, the auditor or
7.18 secretary shall give notice by mail of the time and location of the hearing to the owners of
7.19 property, political subdivisions, and utilities proposed to be assessed in the report. The
7.20 notice of hearing must include a copy of the portion of the report explaining in nontechnical
7.21 language the method, data, and interpretations used, the cost apportionment results applicable
7.22 to the property owner, political subdivision, or utility receiving notice, and a statement of
7.23 the location where the entire repair cost apportionment report has been filed for public
7.24 inspection.

7.25 (e) At the hearing, the drainage authority shall hear and consider the testimony presented
7.26 by all interested parties. At least one person responsible for preparing the repair cost
7.27 apportionment report shall be present at the initial hearing.

7.28 (f) If the drainage authority determines that the apportionment of costs is not equitable,
7.29 the drainage authority may amend the repair cost apportionment report and shall make
7.30 necessary and proper findings and an order in relation to the report, or resubmit matters to
7.31 the preparer of the repair cost apportionment report for further consideration. If matters are
7.32 resubmitted, the hearing may be continued as necessary to make and hear an amended report.
7.33 The report preparer shall proceed promptly to reconsider resubmitted matters and shall make
7.34 and file an amended report. The drainage authority may replace the original report with the

8.1 amended report for apportionment of repair costs and make necessary and proper findings
8.2 and an order to approve the amended report. The jurisdiction of the drainage authority
8.3 continues in the property given proper notice, and new or additional notice is not required
8.4 for that property.

8.5 (g) After consideration of the repair cost apportionment report, any amended report, and
8.6 all evidence presented, the drainage authority shall make findings, approve the report and
8.7 apportion repair costs consistent with the values in the repair cost apportionment report if
8.8 it finds that the cost apportionment is equitable based on:

8.9 (1) the weighting of relative runoff and relative sediment delivery is appropriate for the
8.10 type of repair;

8.11 (2) the data inputs are reliable; and

8.12 (3) the computation method is reliable.

8.13 (h) The drainage authority may continue to apportion repair costs consistent with the
8.14 values in the repair cost apportionment report of record. After a repair cost apportionment
8.15 report has been approved under this subdivision, an owner of property, a political subdivision,
8.16 or a utility assessed in the repair cost apportionment report of record may request in writing
8.17 that the drainage authority update the report based on changed land use. The request shall
8.18 be filed with the auditor of the county where the property is located or the secretary. Prior
8.19 to the next approval by the drainage authority of a repair cost assessment for the drainage
8.20 system, the drainage authority shall determine if the repair cost apportionment report of
8.21 record reasonably reflects current land use, relative runoff and relative sediment delivery.
8.22 If it does not, the drainage authority shall make findings and shall appoint one or more
8.23 persons to prepare and file an updated repair cost apportionment report for the drainage
8.24 system in accordance with paragraphs (c), (d), (e), (f), and (g) of this subdivision.

8.25 (i) Proper consideration must be given to property that is used for conservation that
8.26 prohibits development or land use change by ownership, deed restriction, or conservation
8.27 easement, or is enrolled in a program that prohibits agricultural crop production.

8.28 (j) The owner of any property subject to cost apportionment listed in the adopted repair
8.29 cost apportionment report may appeal findings of the drainage authority under paragraph
8.30 (g) as provided in section 103E.095.

8.31 Sec. 20. Minnesota Statutes 2016, section 103E.728, subdivision 2, is amended to read:

8.32 Subd. 2. **Additional assessment for agricultural practices on permanent strip of**
8.33 **perennial vegetation.** (a) The drainage authority may, after notice and hearing, charge an

9.1 additional assessment on property that has agricultural practices on or otherwise violates
9.2 provisions related to the permanent strip of perennial vegetation acquired under section
9.3 103E.021.

9.4 (b) The drainage authority may determine the cost of the repair per mile of open ditch
9.5 on the ditch system. Property that is in violation of the ~~grass~~ section 103E.021 perennial
9.6 buffer strip requirement shall be assessed ~~a~~ an additional cost of 20 percent of the repair
9.7 cost per open ditch mile multiplied by the length of open ditch in miles on the property in
9.8 violation.

9.9 (c) After the amount of the additional assessment is determined and applied to the repair
9.10 cost, the balance of the repair cost may be apportioned ~~pro-rata~~ as provided in subdivision
9.11 1.

9.12 Sec. 21. Minnesota Statutes 2016, section 103E.731, subdivision 1, is amended to read:

9.13 Subdivision 1. **Repair cost of assessments.** If there is not enough money in the drainage
9.14 system account to make a repair, the board shall assess the costs of the repairs ~~on all property~~
9.15 ~~and entities that have been assessed benefits for the drainage system~~ in accordance with
9.16 section 103E.728.

9.17 Sec. 22. Minnesota Statutes 2016, section 103E.731, subdivision 2, is amended to read:

9.18 Subd. 2. **Number of installments.** The assessments may be paid in up to 15 annual
9.19 installments specified in the assessment order. ~~If the assessments are not more than 50~~
9.20 ~~percent of the original cost of the drainage system, the installments may not exceed ten. If~~
9.21 ~~the assessments are greater than 50 percent of the original cost of the drainage system, the~~
9.22 ~~board may order the assessments to be paid in 15 or less installments.~~

9.23 Sec. 23. Minnesota Statutes 2016, section 103E.731, subdivision 6, is amended to read:

9.24 Subd. 6. **Repair of state drainage system when no benefits assessed.** For the repair
9.25 of a drainage system established by the state where benefits were not assessed to the property,
9.26 the drainage authority shall ~~proceed to appoint viewers to determine the benefits resulting~~
9.27 ~~from the repair~~ apportion repair costs in accordance with section 103E.728, and collect
9.28 assessments for the repair as provided in this chapter.

9.29 Sec. 24. Minnesota Statutes 2016, section 103E.735, subdivision 1, is amended to read:

9.30 Subdivision 1. **Authority and limits of fund.** To create or maintain a repair fund for a
9.31 drainage system to be used only for repairs, the drainage authority may apportion and assess

- 10.1 an amount ~~against all property and entities assessed for benefits in proceedings for~~
10.2 ~~establishment of the drainage system, including property not originally assessed and~~
10.3 ~~subsequently found to be benefited according to law~~ in accordance with section 103E.728.
10.4 The fund may not exceed 20 percent of the assessed benefits of the drainage system or
10.5 \$100,000, whichever is greater. If the account in a fund for a drainage system exceeds the
10.6 larger of 20 percent of the assessed benefits of the drainage system or \$100,000, assessments
10.7 for the fund may not be made until the account is less than the larger of 20 percent of the
10.8 assessed benefits or \$100,000. ~~Assessments must be made pro rata according to the~~
10.9 ~~determined benefits.~~ Assessments may be made payable, by order, in equal annual
10.10 installments. The auditor shall file a tabular statement as provided in section 103E.731,
10.11 subdivision 4, with the county recorder. Assessments must be collected as provided in
10.12 section 103E.731."
- 10.13 Amend the title accordingly