

HF2076 - 0 - Pollution Control Agency Citizen Membership

Chief Author: **Kristin Pursell**
 Committee: **Environment and Natural Resources Finance And Policy**
 Date Completed: **3/2/2023 10:23:04 AM**
 Lead Agency: **Pollution Control Agency**
 Other Agencies:
 Governors Office

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027
Governors Office	-	-	-	-	-	-
General Fund	-	-	-	-	-	-
Pollution Control Agency						
General Fund	-	298	193	193	193	193
Environmental	-	140	140	140	140	140
State Total						
General Fund	-	298	193	193	193	193
Environmental	-	140	140	140	140	140
	Total	-	438	333	333	333
	Biennial Total		771			666

Full Time Equivalent Positions (FTE)	Biennium			Biennium		
	FY2023	FY2024	FY2025	FY2026	FY2027	
Governors Office	-	-	-	-	-	
General Fund	-	-	-	-	-	
Pollution Control Agency						
General Fund	-	2	1.25	1.25	1.25	
Environmental	-	1	1	1	1	
	Total	-	3	2.25	2.25	2.25

Lead LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Jim Carlson **Date:** 3/2/2023 10:23:04 AM
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State Cost (Savings) Calculation Details

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Biennial Total			771		666
1 - Expenditures, Absorbed Costs*, Transfers Out*					
Governors Office	-	-	-	-	-
General Fund					
Expenditures	-	1	-	-	-
Absorbed Costs	-	(1)	-	-	-
Pollution Control Agency					
General Fund	-	298	193	193	193
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Environmental	-	-	-	-	-
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Biennial Total			-		-

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Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

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LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Jim Carlson **Date:** 3/2/2023 10:22:27 AM
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Environmental	-	-	-	-	-	-
Total	-	-	-	-	-	-
Biennial Total			-			-

Bill Description

HF2076 (bill) amends M.S. 116.02 and 116.03 to reinstate the Minnesota Pollution Control Agency (MPCA) Citizens Board, which was eliminated in 2015. The MPCA Citizens Board was originally established in 1967. It was made up of nine members consisting of the commissioner of the MPCA, who serves as the chair, and eight citizens appointed by the Governor and confirmed by the Senate. The MPCA Citizens Board had a number of duties and authorities, including final decision-making authority on the need for an environmental impact statement (EIS) under certain conditions and the issuance of certain permits. This bill would restore the board to its original makeup, duties, and authorities.

Section 1 establishes the purpose of the MPCA Citizens Board

Section 2 amends M.S. 116.02 related to the creation and power of the MPCA.

Subdivision 1 defines the MPCA to include a commissioner and eight members appointed by the governor, by and with the advice and consent of the Senate.

Subdivision 2a provides for the membership terms, compensation, removal, and filling of vacancies as provided in M.S. 15.0575.

Subdivision 3a establishes the details of the membership. The members must be broadly representative of the skills and experience necessary to effectuate the policy of M.S. 116.01 to 116.075, except that no member other than the commissioner may be an officer or employee of the state or federal government. The membership of the agency must reflect the diversity of the state in terms of race, gender, and geography. Only two members at one time may be officials or employees of a municipality or any governmental subdivision, but neither shall be a member, ex officio or otherwise, on the management board of a municipal sanitary sewage disposal system. At least one member must be an enrolled member of a Tribal Nation; at least three members must live in an environmental justice community and at least one member must be a livestock or crop farmer or both, with fewer than 200 head of livestock or fewer than 500 acres of cropland or both and at least one member must be a member of a labor union. A member must not have a financial interest in any project coming before the agency within two years before or during the member’s term.

Subdivision 4a establishes the commissioner as the chair of the agency and all other officers to be elected as necessary.

Subdivision 5 vests authorities of chapter 115 in the MPCA rather than the commissioner.

Subdivision 6a requires the Citizens Board to make the final decisions:

(1) a petition for preparing an environmental assessment worksheet, if the project proposer or a person commenting on the proposal requests that the decision be made by the agency and the agency requests that it make the decision under subdivision 8a; (2) the need for an environmental impact statement following preparation of an environmental assessment worksheet under applicable rules, if:

(i) the agency has received a request for an environmental impact statement

(ii) the project proposer or a person commenting on the proposal requests that the declaration be made by the agency and the agency requests that it make the decision under subdivision 8a; or

(iii) the commissioner is recommending preparation of an environmental impact statement;

(3) the scope and adequacy of environmental impact statements;

(4) issuing, reissuing, modifying, or revoking a permit

(5) final adoption or amendment of agency rules for which a public hearing is required under section 14.25 or for which the commissioner decides to proceed directly to a public hearing under section 14.14, subdivision 1;

(6) approving or denying an application for a variance from an agency rule

(7) whether to reopen, rescind, or reverse a decision of the agency.

Subdivision 6b requires the agency to consider whether there has been free prior and informed consent via government-to-government consultation with Tribal Nations and how a project will impact the ability of communities to exercise rights guaranteed by treaties.

Subdivision 7a allows the commissioner to request the Citizens Board to make additional decisions or provide advice.

Subdivision 8a establishes that other actions not specifically within the authority of the commissioner are made by the Citizens Board if:

(1) before the commissioner's final decision on the action, one or more members of the agency notify the commissioner of their request that the decision be made by the agency; or

(2) any person submits a petition to the commissioner requesting that the decision be made by the agency and the commissioner grants the petition.

If the commissioner denies a petition submitted under paragraph (a), clause 2, the commissioner must inform the Citizens Board and the petitioner why the denial was made.

Subdivision 9a requires the commissioner to inform the public using public notices and other public documents of their right to request the Citizens Board to make decisions in specific matters according to subdivision 6a and the right of agency members to request that decisions be made by the agency according to subdivision 8a. The commissioner must regularly inform the agency of activities that have broad policy implications or potential environmental significance and of activities in which the public has exhibited substantial interest.

Subdivision 11 in paragraph (a) prohibits the Citizens Board from reopening, rescinding or reversing its decision unless two-thirds of the members approve by vote, or there is a finding that the hearing related to the decision had an irregularity, an error of law, or a newly discovered material issue of fact. In paragraph (b), clarification is provided that paragraph (a) is the minimum requirements and it does not limit the agency's authority to adopt rules, to apply paragraph (a) to certain decisions or in establishing additional or more stringent requirements for reopening, rescinding, or reversing decisions of the agency.

Section 3 amends M.S. 116.03, subdivision 1, paragraph c to indicate that the commissioner shall make all decisions on behalf of the agency that are not required to be made by the Citizens Board under M.S. 116.02.

Section 4 amends M.S. 116.03, subdivision 2a to add the Citizens Board to the mission statement.

Assumptions

The agency assumes the Citizens' Board members will be equally divided between Metro and out-state representatives. It is estimated the Citizens Board will meet once per month, as they did in the past. The agency would provide public notice for each meeting per our normal public notice process. This process would make Board documents available on the MPCA webpage, which would also contain information regarding the Citizens Board.

Travel expenses in the cost calculation include mileage and meals. Not knowing exactly where the out-state members would live, we have estimated mileage and meals, but no overnight lodging. Board members will be paid a per diem as noted in Section 2, subdivision 2a.

The agency estimates it will need one FTE of support staff for the Board. The work of support staff will include planning and arranging logistics for the public meetings, communicating hearing schedules, reviewing all Board member travel and per diem expenses and other hearing expenses prior to submitting them for payment to Fiscal Services, coordinating with MPCA professional staff to coordinate the issues to be addressed and presented at the public hearings, and making the issues addressed and discussed at the hearings available to the public through the agency website. This FTE would be on-going.

The agency anticipates that in the first year we will need one FTE of additional professional staff time involved in setting up the webpage, web meetings, and other process and document steps. Once the process is operating smoothly, we believe the ongoing support would drop to 0.25 FTE.

Based on the topics and other agenda items appearing before the board, numerous agency staff would be required to develop and make subject matter expert presentations. This effort is estimated at 1 FTE/year and would be existing staff paid for out of the environmental fund (main source for MPCA staff funding).

Expenditure and/or Revenue Formula

Board Member Travel and Meeting Expenses

Mileage: 4 non-metro Citizens' Board members x 12 public meetings x 250 mi x \$0.655/mile = \$7,860

Mileage: 4 metro Citizens' Board members x 12 public meetings x 80 mi x \$0.655/mile = \$2,515

Meals: 8 Citizens' Board members and supporting staff x 12 public meetings x \$20/member = \$1,920

Per diem: 8 Citizens' Board members x 12 public hearings x \$55/day = \$5,280

Total Citizens' Board travel costs and per diem = \$19,015/year

Citizens Board support staff. FY 2024 and ongoing = 1 FTE/year

Professional staff meetings support. FY 2024 = 1 FTE, FY 2025 and beyond = 0.25 FTE

Subject matter expert staff. FY2024 and beyond = 1 FTE

(2 subject matter expert staff x average of 22 hours preparation/agenda item x 4 agenda items/meeting x 12 meetings/year = 2,112/year. 1 FTE= 2,080 hours/year)

FY2024 = 3 FTE = \$420,000

FY2025 and beyond = 2.25 FTE = \$315,000/year ongoing costs

*The annual cost of 1.0 FTE is \$140,000 in FY2023-2027. Annual costs for 1.0 FTE include salary, fringe, and non-specialized employee support costs (work space, computer and office supplies, office equipment, local travel, etc.)

Long-Term Fiscal Considerations

Costs of this bill would continue into the future.

Local Fiscal Impact

None anticipated.

References/Sources

Staff familiar with costs of the Citizen's Board were consulted in the drafting of this note.

Agency Contact: Pam Anderson (651-757-2190)

Agency Fiscal Note Coordinator Signature: John Allen

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Chief Author: **Kristin Pursell**
 Committee: **Environment and Natural Resources Finance And Policy**
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State Fiscal Impact	Yes	No
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Tax Revenue		X
Information Technology		X
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Total	-	-	-	-	-	-
Biennial Total			-			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	-	-	-	-
Total	-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Susan Nelson **Date:** 2/28/2023 7:04:32 AM
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Total		-	-	-	-	-
Biennial Total				-		-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
General Fund						
Expenditures		-	1	-	-	-
Absorbed Costs		-	(1)	-	-	-
Total		-	-	-	-	-
Biennial Total				-		-
2 - Revenues, Transfers In*						
General Fund						
Total		-	-	-	-	-
Biennial Total				-		-

Bill Description

This bill reinstates citizens on the Minnesota Pollution Control Agency and specifies members that need to be appointed.

Assumptions

The legal and appointments team would appoint the members outlined in this bill and would absorb this as part of their regular and ongoing appointments work.

Expenditure and/or Revenue Formula

The Governor's Office will absorb these costs.

Long-Term Fiscal Considerations

Local Fiscal Impact

References/Sources

Agency Contact: Alyssa Haugen (651-201-3416)

Agency Fiscal Note Coordinator Signature: Alyssa Haugen

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