

House Research Act Summary

CHAPTER: 298

SESSION: 2010 Regular Session

TOPIC: Drainage

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Overview

This act makes a number of changes to the state's drainage law.

Section

- 1 Drainage stakeholder coordination.** Amends § 103B.101, adding subd. 13. Requires the Board of Water and Soil Resources (BWSR) to work with drainage stakeholders to foster understanding and make recommendations on drainage system management and related water management.
- 2 Drainage inspectors.** Amends § 103E.065. Expands the requirement to appoint a drainage inspector by applying it to watershed districts and removing a minimum threshold which currently requires the appointment only when a drainage system has an aggregate cost over \$50,000.
- 3 Impounding, rerouting, and diversion of drainage system waters.** Amends § 103E.227.
 - Subd. 1. Petition.** Expands the petition process for drainage system projects to include a petition to reroute a drainage system and clarifies where to file petitions. Requires that petitions identify the sources of funds to be used and any that will be requested. Allows any required public waters work or water use permits to be acquired later by removing a requirement that petitions include such permits.
 - Subd. 2. Bond.** Exempts Soil and Water Conservation Districts (SWCDs) and watershed districts from the requirement to submit a bond.
 - Subd. 3. Procedure to establish project.** Replaces “ditch” with “drainage system” to expand the definition of system when determining impacts on systems when reviewing a project. Requires a drainage authority to define, within an order

authorizing a project, any drainage system funds approved for a project at the discretion of the drainage authority. (A “drainage authority” is defined in Minnesota Statutes, section 103E.005, subdivision 9, as the county board or joint county drainage authority having jurisdiction over a drainage system or project.)

Subd. 4. Permits and flowage easements required. States that any necessary permits are required prior to installing or constructing a project (previously this was required at the time of petition).

Subd. 5. Construction, operation, maintenance, and repair responsibilities. Requires that a drainage authority order authorizing a project identify the responsible parties for the construction, operation, and maintenance of the drainage system modification and the amount of any drainage system funds for the project. Requires a petitioner’s engineer to estimate the costs of any separable repairs and requires the drainage authority to consider the separable repair costs that will be avoided as a result of the petitioned project and any other benefits when determining the amount of drainage system funding to contribute to the project.

- 4** **Petition.** Amends § 103E.401, subd. 3. Removes the specific fee amounts that a petitioner must pay when submitting a petition to use an established drainage system as an outlet and requires the petitioner to pay the actual costs of mailing hearing notices of the petition. (Currently the fee is \$5.00, plus \$0.30 for each notice mailed in excess of ten.)
- 5** **Notice of contract awarding.** Amends § 103E.505, subd. 3. Raises the threshold, when requiring a county to publish notice of awarding a construction contract in a drainage trade newspaper, from \$3,000 to \$25,000.
- 6** **Payment of drainage lien principal.** Amends § 103E.611, subd. 1. Raises the lien threshold, when a drainage authority may order drainage liens be paid in one or two installments, from less than \$50 to less than \$500.
- 7** **Authority and limits of fund.** Amends § 103E.735, subd. 1. Raises the maximum amount allowed in a drainage system repair fund to the greater of \$100,000 or 20 percent of the assessed benefits of the drainage system (currently, it is the greater of \$40,000 or 20 percent of the assessed benefits of the drainage system).
- 8** **Removal of property from a drainage system.** Amends § 103E.805,

Subd. 1. Petition. Removes provisions related to the partial abandonment of drainage systems which are recodified and clarified in new section 103E.806.

Subd. 2. Filing. Clarifies where to file a petition to remove property from a drainage system.

Subd. 3. Hearing. Requires that a hearing notice on a petition to remove property from a drainage system be mailed to all property owners benefiting from the system, and either published in a newspaper or on the drainage authority’s Web site. Removes from the criteria for determining removal of property from the drainage system that a dam has been constructed. Makes technical changes related to the recodification of the partial abandonment provisions.

Subd. 4. Effect of removing property from drainage system. No changes.

Subd. 5. Liens and assessments on property removed from a drainage system.
Technical.

- 9 Partial abandonment of a drainage system.** Adds § 103E.806. Recodifies and makes changes to the process for partial abandonment of drainage systems (currently included with the process for removing property from a drainage system under section 103E.805).

Subd. 1. Petition. Recodifies and clarifies the petition process for partial abandonment of a drainage system.

Subd. 2. Filing. Recodifies and clarifies where to file a petition.

Subd. 3. Hearing. Paragraph (a) recodifies the hearing process for petitions for the partial abandonment of drainage systems and adds a requirement that all owners of property benefiting from a drainage system be mailed a hearing notice on a petition for the partial abandonment of the system, and that the hearing notice also be either published in the newspaper or on the drainage authority's Web site.

Paragraph (b) recodifies the drainage authority's process for determining whether part of a drainage system can be abandoned and modifies the current criteria for making the determination by adding portions that do not serve a substantial useful purpose "as part of the drainage system" in order to allow abandonment of portions that may have private or other benefits.

Subd. 4. Effect of partial abandonment. States that a repair petition may not be accepted for an abandoned part of the drainage system and that all responsibility of the drainage authority for an abandoned part of the system ends.

Subd. 5. Liens and assessments on property in partial abandonment.
Recodifies the provision that liens and assessments on property made prior to partial abandonment are not released.