

# HOUSE RESEARCH

## Bill Summary

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**Subject:** Clean Water Legacy Act

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### Overview

This is the bill that has been around for three years and is the product of the G-16 group of stakeholders. It establishes a process to clean up impaired waters, as part of complying with the Federal Clean Water Act, utilizing a clean water council composed of 17 citizens representing diverse interests. It also establishes a couple of grant programs under the Public Facilities authority to assist in wastewater treatment. Funding for clean water legacy is contained in the 2006 bonding and supplemental appropriations bills.

#### Section

- 1 1** **Conservation contracts.** Makes provisions to ensure that soil and water conservation district contracts with landowners complete the practices specified.
- 2** **Citation.** Cites a new chapter in Minnesota Statutes, chapter 114D, as the "Clean Water Legacy Act."
- 3** **Legislative purpose.** Explains the purpose being to protect, restore and preserve the state's surface water quality in complying with the federal Clean Water Act by providing direction and resources to do so.
- 4** **Definitions.** Contains definitions for the bill, including "citizen monitoring," "clean water council," "federal TMDL requirements," "impaired water," "public agencies," "restoration," "surface waters," "third-party TMDL," "total maximum daily load or TMDL," and "water quality standards." Generally, a "TMDL" means a calculation of the maximum amount of a pollutant that may be introduced into surface waters, while ensuring that water quality

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standards are achieved and maintained.

### **5 Implementation; coordination; goals; policies; and priorities.**

**Subd. 1. Coordination and cooperation.** Requires public agencies involved to consider and take into account the provisions of local water and land use plans in implementing the clean water goals of this bill, including assisting with funding or technical assistance.

**Subd. 2. Goals for implementation.** States six goals: to identify impaired waters within ten years; to submit TMDLs to the U.S. EPA in a timely manner; to set reasonable times for restoring impaired waters; to provide assistance and incentives to keep waters clean; to seek delisting of waters from the impaired waters list; and to achieve compliance with federal law.

**Subd. 3. Implementation policies.** Establishes eight policies to guide implementation: to develop appropriate TMDLs; to maximize use of available resources; to maximize opportunities for restoring clean waters; to use existing regulatory authorities and effective nonregulatory measures; to use demonstrated restoration methods; to identify innovative approaches; to prevent waters from becoming impaired; and to monitor and enforce cost-sharing contracts.

**Subd. 4. Priorities for identifying impaired waters.** Requires the Pollution Control Agency (PCA) to set priorities for identifying impaired waters, considering those posing the greatest risk to human or aquatic health and those waters where data developed provides evidence that an impaired condition exists.

**Subd. 5. Priorities for preparation of TMDLs.** Requires the Clean Water Council (established in section 7 of this bill) to recommend priorities for scheduling and preparing TMDLs. Lists considerations.

**Subd. 6. Priorities for restoration of impaired waters.** Requires the Clean Water Council to give priority for water restoration funding to certain types of projects, including those that coordinate with others and leverage funding needs.

**Subd. 7. Priorities for funding prevention actions.** Requires the Clean Water Council to follow priorities for restoration when recommending funding prevention and improvement actions.

### **6 Administration; Pollution Control Agency.** Describes the general duties and authorities for the PCA to implement this act, including entering into agreements with qualified public entities to develop third-party TMDLs, as long as there is not a conflict of interest to do so.

### **7 Clean Water Council.**

**Subd. 1. Creation; duties.** Creates a Clean Water Council, with the PCA providing administrative support, to advise and foster coordination and cooperation on the provisions of this act. The whole council would elect a chair from the nonagency members.

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**Subd. 2. Membership; appointment.** Provides for the governor to appoint 21 members to the council, including one person each from the PCA, DNR, Board of Water and Soil Resources, and the Department of Agriculture as nonvoting members; and 17 nonagency members. Nonagency members are: two each from farm organizations, county government, and city government, and one each from business, environment organizations, soil and water conservation districts, watershed districts, lake or stream organizations, township government, the Metropolitan Council, the state university system, fishing groups, hunting organizations, and tribal governments. The citizen members may not be registered lobbyists.

**Subd. 3. Conflict of interest.** Mandates that no council member may participate or vote on a council decision if the member has a personal financial interest.

**Subd. 4. Terms; compensation; removal.** Provides for staggered 4-year terms, compensation of \$55 per day plus expenses and removal at the pleasure of the appointing authority.

**Subd. 5. Implementation plan.** Requires the council to prepare an implementation plan and biennial work plans for setting priorities to address impaired waters, with the first plan due December 1, 2006.

**Subd. 6. Recommendations on appropriation of funds.** Requires the council to recommend to the governor how money from the clean water legacy account should be appropriated each biennium.

**Subd. 7. Biennial report to legislature.** Requires biennial reports to the legislature on how the clean water money has been spent.

8 **Public and stakeholder participation; scientific review; education.** Requires the public agencies involved in the clean water effort under this act to encourage full participation and shared information by all citizens. The council must make use of all available scientific expertise, and provide education strategies to inform the public.

9 **Clean water legacy account.** Creates one in the environmental fund, which can't supplant other current funds for this purpose.

10 **Nutrient loading offset.** Allows the PCA, before a TMDL is completed, to issue a permit for a new or expanding discharger if it results in decreased loading to an impaired water.

11 **Project financial assistance.** States that if a project is eligible for a TMDL, phosphorus reduction, or small community wastewater treatment grant, the total grant may not exceed the greater of the maximum amount from a single program, or what it could receive under the wastewater infrastructure program.

12 **Stormwater projects.** Adds stormwater projects to receive up to one-half the cost, if made necessary by wasteload reductions under TMDL plans.

13 **PCA grant duties.** Specifies calculations and certifications the PCA must do in assisting the Public Facilities Authority on TMDL grant applications.

14 **Phosphorus reduction grants.** Creates a clean water legacy capital improvement fund under the Public Facilities Authority to award grants to governmental units for the express purpose of reducing phosphorus discharge from a facility to one milligram per liter or less.

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Requirements for the grants are specified.

**Subd. 3. Eligible capital costs.** Include as-bid construction costs, engineering, planning and design costs, and the final costs for phosphorus reduction.

**Subd. 4. Amounts and priorities.** States that 75 percent of the eligible capital cost may be paid if the PCA approves a facility's plan before July 1, 2010; and 50 percent may be paid after that date. Certain projects that meet eligibility requirements and have started construction before July 1, 2006, may be reimbursed for up to 75 percent of their costs to reduce phosphorus, but priorities for overall phosphorus reduction grants are for projects starting after July 1, 2006.

**15 Small community wastewater treatment.** Creates a small community wastewater treatment fund under the Public Facilities Authority for loans to governmental units to replace failing or inadequate individual septic systems. Describes the criteria required when making an application for these loans.

**Subd. 5. Loan awards.** Made based on ranking on the PCA's project priority list, and based on the estimated costs for the project portion completed within one year, up to an annual maximum of \$500,000. Multiyear loan commitments may be made by the authority up to three years maximum. Loan terms and conditions for repayment are described in subdivision 6.

**Subd. 7. Deferred payments.** Allows a governmental unit receiving a loan, and which levies special assessments for repayment, to defer payment of the assessment under certain conditions.

**16 Phosphorus rule.** Delays the effect of a PCA rule on limits on phosphorus discharges from wastewater facilities until July 1, 2007. Requires the PCA to report in 2007 to the legislature on scientific justification and impact for a rule changing limits on phosphorus discharges.

**17 Effective date.** Makes sections 1 to 16 effective the day following final enactment.