

Subject Water Appropriation Enforcement

Authors Becker-Finn

Analyst Janelle Taylor

Date March 23, 2022

Overview

This bill modifies the enforcement authority of the Department of Natural Resources (DNR) for water related provisions under chapter 103G, which includes water appropriation permit requirements and other water related requirements.

Summary

Section	Description
---------	-------------

- | | |
|---|---|
| 1 | <p>Orders and investigations.</p> <p>Provides a number of powers and duties of the commissioner of natural resources when enforcing provisions under chapter 103G, which includes water appropriation permit, public water work permit, and other water related requirements. The powers and duties include, the power to: issue and enforce reasonable orders, schedules of compliance, and stipulation agreements; issue notices of violation; require permit holders to make reports, install certain equipment, perform certain tests, and provide other information; and conduct investigations and order hearings.</p> |
| 2 | <p>Duty of candor.</p> <p>Prohibits a person from knowingly making a false statement, failing to disclose necessary information, or offering information that the person knows is false. Requires a person to take reasonable measures to provide accurate information when a person finds out they have offered information to the commissioner that is false.</p> |
| 3 | <p>Authority to issue administrative penalty orders.</p> <p>Expands the DNR's authority to issue administrative penalty orders to those violating the terms of a water appropriation permit.</p> |

Section	Description
4	<p>Amount of penalty; considerations.</p> <p>Allows the DNR to issue administrative penalties of up to \$40,000. Under current law, penalties are capped at \$1,000 when there is the potential for minor harm, \$10,000 when there is moderate potential, and \$20,000 when there is severe potential.</p>
5	<p>Penalty.</p> <p>Requires penalties to be forgiven if a violation has been corrected or appropriate steps have been taken unless there are repeated or serious violations.</p>
6	<p>Cumulative remedy.</p> <p>Removes provisions prohibiting the state from seeking civil penalties for violations covered by an administrative penalty order.</p>
7	<p>Penalties; enforcement.</p> <p>Subd. 1. Civil penalties. Allows the commissioner to issue a notice to those who violate chapter 103G, including rules, permits, duties, orders, and stipulation agreements issued under it. States that a person issued a notice must forfeit and pay a penalty determined by the district court of no more than \$10,000 per day of violation. Allows the courts to require a defendant to pay the reasonable value of restoration, monitoring, and other expenses resulting from the unauthorized use of or damage to natural resources and just compensation for any loss, destruction, or damages. Allows a defendant, in defense of the damages assessed, to prove a violation was caused solely by an act of God, war, negligence by the state, sabotage or vandalism, or a combination.</p> <p>Subd. 2. Enforcement. States that chapter 103G may be enforced by one or more of the following: criminal prosecution; civil penalties; injunction; action to compel performance; or other appropriate action.</p> <p>Subd. 3. Injunctions. States that a violation of chapter 103G may be enjoined in an action in the name of the state brought by the attorney general.</p> <p>Subd. 4. Actions to compel performance. Allows the court to require a defendant to act within the defendant's power. Allows the court to require a municipality to exercise its powers without regard to certain limitations. Requires the court to grant a municipality the opportunity to determine the appropriate financial alternatives to comply. Requires actions brought under this subdivision to take place in Ramsey County District Court.</p>



**MN HOUSE
RESEARCH**

Minnesota House Research Department provides nonpartisan legislative, legal, and information services to the Minnesota House of Representatives. This document can be made available in alternative formats.

www.house.mn/hrd | 651-296-6753 | 155 State Office Building | St. Paul, MN 55155