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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. **1100**

03/04/2013 Authored by Wagenius and Winkler

The bill was read for the first time and referred to the Committee on Environment and Natural Resources Policy

03/13/2013 Adoption of Report: Pass as Amended and re-referred to the Committee on Environment, Natural Resources and Agriculture Finance

1.1 A bill for an act
1.2 relating to environment; modifying water supply management; modifying
1.3 environmental assessment worksheet requirements related to water use;
1.4 modifying provisions for groundwater appropriations; amending Minnesota
1.5 Statutes 2012, sections 103G.265, subdivisions 2, 3; 103G.287, subdivisions 1,
1.6 5; 103I.205, subdivision 1; 116D.04, by adding a subdivision.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. Minnesota Statutes 2012, section 103G.265, subdivision 2, is amended to
1.9 read:

1.10 Subd. 2. **Diversion greater than 2,000,000 gallons per day.** A water use permit
1.11 or a plan that requires a permit or the commissioner's approval, involving a diversion of
1.12 waters of the state of more than 2,000,000 gallons per day average in a 30-day period,
1.13 to a place outside of this state or from the basin of origin within this state may not be
1.14 granted or approved until:

1.15 ~~(1) a determination is made by the commissioner that the water remaining in the~~
1.16 ~~basin of origin will be adequate to meet the basin's water resources needs during the~~
1.17 ~~specified life of the diversion project~~ diversion is sustainable and meets the applicable
1.18 standards under section 103G.287, subdivision 5; and

1.19 ~~(2) approval of the diversion is given by the legislature.~~

1.20 Sec. 2. Minnesota Statutes 2012, section 103G.265, subdivision 3, is amended to read:

1.21 Subd. 3. **Consumptive use of more than 2,000,000 gallons per day.** ~~(a) Except~~
1.22 ~~as provided in paragraph (b);~~ A water use permit or a plan that requires a permit or the
1.23 commissioner's approval, involving a consumptive use of more than 2,000,000 gallons per
1.24 day average in a 30-day period, may not be granted or approved until:

~~(1) a determination is made by the commissioner that the water remaining in the basin of origin will be adequate to meet the basin's water resources needs during the specified life of the consumptive use is sustainable and meets the applicable standards under section 103G.287, subdivision 5; and~~

~~(2) approval of the consumptive use is given by the legislature.~~

~~(b) Legislative approval under paragraph (a), clause (2), is not required for a consumptive use in excess of 2,000,000 gallons per day average in a 30-day period for:~~

~~(1) a domestic water supply, excluding industrial and commercial uses of a municipal water supply;~~

~~(2) agricultural irrigation and processing of agricultural products;~~

~~(3) construction and mine land dewatering;~~

~~(4) pollution abatement or remediation; and~~

~~(5) fish and wildlife enhancement projects using surface water sources.~~

Sec. 3. Minnesota Statutes 2012, section 103G.287, subdivision 1, is amended to read:

Subdivision 1. **Applications for groundwater appropriations; preliminary well construction approval.** (a) Groundwater use permit applications are not complete until the applicant has supplied:

(1) a water well record as required by section 103I.205, subdivision 9, information on the subsurface geologic formations penetrated by the well and the formation or aquifer that will serve as the water source, and geologic information from test holes drilled to locate the site of the production well;

(2) the maximum daily, seasonal, and annual pumpage rates and volumes being requested;

(3) information on groundwater quality in terms of the measures of quality commonly specified for the proposed water use and details on water treatment necessary for the proposed use;

(4) an inventory of existing wells within 1-1/2 miles of the proposed production well or within the area of influence, as determined by the commissioner. The inventory must include information on well locations, depths, geologic formations, depth of the pump or intake, pumping and nonpumping water levels, and details of well construction; ~~and~~

(5) the results of an aquifer test completed according to specifications approved by the commissioner. The test must be conducted at the maximum pumping rate requested in the application and for a length of time adequate to assess or predict impacts to other wells and surface water and groundwater resources. The permit applicant is responsible for all costs related to the aquifer test, including the construction of groundwater and

surface water monitoring installations, and water level readings before, during, and after the aquifer test; and

(6) the results of any assessments conducted by the commissioner under paragraph (c).

(b) The commissioner may waive an application requirement in this subdivision if the information provided with the application is adequate to determine whether the proposed appropriation and use of water is sustainable and will protect ecosystems, water quality, and the ability of future generations to meet their own needs.

(c) The commissioner shall provide an assessment of a proposed well needing a groundwater appropriation permit. The commissioner shall evaluate the information submitted as required under section 103I.205, subdivision 1, paragraph (f), and determine whether the anticipated appropriation request is likely to meet the applicable requirements of this chapter. If the appropriation request is likely to meet applicable requirements, the commissioner shall provide the person submitting the information with a letter providing preliminary approval to construct the well.

Sec. 4. Minnesota Statutes 2012, section 103G.287, subdivision 5, is amended to read:

Subd. 5. ~~Interference with other wells~~ Sustainability standard. The commissioner may issue water use permits for appropriation from groundwater only if the commissioner determines that the groundwater use is sustainable to supply the needs of future generations and the proposed use will not harm ecosystems, degrade water, or reduce water levels beyond the reach of public water supply and private domestic wells constructed according to Minnesota Rules, chapter 4725.

Sec. 5. Minnesota Statutes 2012, section 103I.205, subdivision 1, is amended to read:

Subdivision 1. **Notification required.** (a) Except as provided in paragraphs (d) and (e), a person may not construct a well until a notification of the proposed well on a form prescribed by the commissioner is filed with the commissioner with the filing fee in section 103I.208, and, when applicable, the person has met the requirements of paragraph (f). If after filing the well notification an attempt to construct a well is unsuccessful, a new notification is not required unless the information relating to the successful well has substantially changed.

(b) The property owner, the property owner's agent, or the well contractor where a well is to be located must file the well notification with the commissioner.

(c) The well notification under this subdivision preempts local permits and notifications, and counties or home rule charter or statutory cities may not require a

permit or notification for wells unless the commissioner has delegated the permitting or notification authority under section 103I.111.

(d) A person who is an individual that constructs a drive point well on property owned or leased by the individual for farming or agricultural purposes or as the individual's place of abode must notify the commissioner of the installation and location of the well. The person must complete the notification form prescribed by the commissioner and mail it to the commissioner by ten days after the well is completed. A fee may not be charged for the notification. A person who sells drive point wells at retail must provide buyers with notification forms and informational materials including requirements regarding wells, their location, construction, and disclosure. The commissioner must provide the notification forms and informational materials to the sellers.

(e) A person may not construct a monitoring well until a permit is issued by the commissioner for the construction. If after obtaining a permit an attempt to construct a well is unsuccessful, a new permit is not required as long as the initial permit is modified to indicate the location of the successful well.

(f) When the operation of a well will require an appropriation permit from the commissioner of natural resources, a person may not begin construction of the well until the person submits the following information to the commissioner of natural resources:

(1) the location of the well;

(2) the formation or aquifer that will serve as the water source;

(3) the maximum daily, seasonal, and annual pumpage rates and volumes that will be requested in the appropriation permit; and

(4) other information requested by the commissioner of natural resources that is necessary to conduct the preliminary assessment required under section 103G.287, subdivision 1, paragraph (c).

The person may begin construction after receiving preliminary approval from the commissioner of natural resources.

Sec. 6. Minnesota Statutes 2012, section 116D.04, is amended by adding a subdivision to read:

Subd. 16. **Groundwater; environmental assessment worksheets.** When an environmental assessment worksheet is required for a proposed action that has the potential to require a groundwater appropriation permit from the commissioner of natural resources, the board shall require that the environmental assessment worksheet include an assessment of the water resources available for appropriation.