

This Document can be made available in alternative formats upon request

State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 1806

03/01/2021 Authored by Lippert, Fischer and Sundin

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

04/06/2021 By motion, recalled and re-referred to the Committee on Health Finance and Policy

1.1 A bill for an act
1.2 relating to health; establishing a program to test private residential water supply
1.3 wells for contaminants and make payments for costs to remediate contaminated
1.4 wells; authorizing rulemaking; classifying certain data; requiring reports;
1.5 establishing penalties; appropriating money; proposing coding for new law in
1.6 Minnesota Statutes, chapter 103I.

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

1.8 Section 1. TITLE.

1.9 This act may be cited as the Minnesota Private Residential Well Testing and Remediation
1.10 Act.

1.11 Sec. 2. PURPOSE.

1.12 The purpose of this act is to ensure that owners and users of private residential water
1.13 supply wells are able to secure safe drinking water from these wells by:

1.14 (1) establishing an expedited, efficient process to test water from private residential
1.15 water supply wells for nitrates, arsenic, or other contaminants to determine if contaminants
1.16 exceed applicable public health standards;

1.17 (2) providing funding to test water from private residential water supply wells for
1.18 contaminants;

1.19 (3) for private residential wells that are contaminated, providing state payments for the
1.20 cost of treatment equipment necessary to remediate contaminant levels and for the cost of
1.21 reconstructing existing private residential wells or drilling new private residential wells and
1.22 sealing existing wells; and

2.1 (4) making an adequate supply of free, safe drinking water available to users of private
2.2 residential wells that are contaminated.

2.3 **Sec. 3. [103I.25] DEFINITIONS.**

2.4 **Subdivision 1. Applicability.** The terms defined in this section apply to sections 103I.25
2.5 to 103I.255 unless the context clearly indicates otherwise.

2.6 **Subd. 2. Accredited laboratory.** "Accredited laboratory" means a laboratory accredited
2.7 by the commissioner under section 144.98 to test water for contaminants.

2.8 **Subd. 3. Claimant.** "Claimant" means one of the following persons eligible to submit
2.9 an application for payment under section 103I.253: an owner or lessee of the property on
2.10 which a contaminated private residential well is located; or the spouse, a dependent, or a
2.11 legal representative of the owner or lessee.

2.12 **Subd. 4. Contaminated.** "Contaminated" means:

2.13 (1) containing one or more substances of public health concern in excess of the maximum
2.14 contaminant level established for that substance in Code of Federal Regulations, title 40,
2.15 chapter 141; or

2.16 (2) containing one or more substances of public health concern in excess of the health
2.17 risk limit established for that substance in Minnesota Rules, parts 4717.7500 to 4717.7900.

2.18 **Subd. 5. Groundwater.** "Groundwater" has the meaning given in section 115.01,
2.19 subdivision 6.

2.20 **Subd. 6. Local unit of government.** "Local unit of government" means the governing
2.21 body of a county, statutory city, or home rule charter city.

2.22 **Subd. 7. Point of entry treatment.** "Point of entry treatment" means full-service water
2.23 treatment applied to water entering a house or building for the purpose of reducing
2.24 contaminants in the water distributed throughout the house or building. In point of entry
2.25 treatment, outside faucets may be excluded from treatment.

2.26 **Subd. 8. Point of use treatment.** "Point of use treatment" means water treatment applied
2.27 to a single tap for the purpose of reducing contaminants in water at one or more outlets.

2.28 **Subd. 9. Private residential water supply well or private residential well.** "Private
2.29 residential water supply well" or "private residential well" means a water supply well that
2.30 is used to supply water for human consumption and that is not a public water supply well,
2.31 as that term is defined in Minnesota Rules, part 4725.0100, subpart 37a.

3.1 Sec. 4. 103I.251 TESTING PROGRAM AND REMEDIATION PAYMENT
3.2 PROGRAM FOR PRIVATE RESIDENTIAL WATER SUPPLY WELLS.

3.3 Subdivision 1. Programs established. The commissioner shall establish and administer
3.4 a program to test private residential water supply wells in the state for contaminants and a
3.5 program to make payments for remediation costs for private residential water supply wells
3.6 in the state that are contaminated.

3.7 Subd. 2. Rulemaking. The commissioner may adopt rules to implement sections 103I.25
3.8 to 103I.255. In adopting any rules under this subdivision, the commissioner must consult
3.9 with licensed water conditioning contractors, the Plumbing Board, and the Advisory Council
3.10 on Wells and Borings.

3.11 Sec. 5. 103I.252 GRANT PROGRAM; TESTING PRIVATE RESIDENTIAL
3.12 WATER SUPPLY WELLS FOR CONTAMINANTS.

3.13 Subdivision 1. Program established. The commissioner shall administer a program to
3.14 test private residential water supply wells for contaminants. In administering the program,
3.15 the commissioner must:

3.16 (1) provide grants to local units of government and tribal governments to fund tests of
3.17 private residential wells in the jurisdiction of the local unit of government or tribal
3.18 government;

3.19 (2) establish minimum standards for local and tribal well testing programs, including
3.20 standards for the collection of water samples, personnel collecting samples, laboratory
3.21 analyses, and follow-up services after testing, and oversee local and tribal well testing
3.22 programs that receive grants under this section to ensure compliance with these minimum
3.23 standards;

3.24 (3) provide technical assistance to local units of government and tribal governments
3.25 operating a local or tribal well testing program;

3.26 (4) educate the public about the local and tribal well testing programs available in the
3.27 state and the importance of testing private residential wells for contaminants; and

3.28 (5) specify contaminants for which all local and tribal well testing programs must test
3.29 and specify additional contaminants for which local and tribal well testing programs may
3.30 test.

3.31 Subd. 2. Application. A local unit of government or tribal government seeking a grant
3.32 under this section shall apply to the commissioner at a time and in a manner established by

4.1 the commissioner. In its application, a local unit of government or tribal government must
4.2 specify how the local unit of government or tribal government will notify owners and users
4.3 of private residential wells about the availability of testing services, the contaminants for
4.4 which the wells will be tested, how water samples will be collected, and follow-up services
4.5 provided to owners and users of private residential wells tested under this section. Two or
4.6 more local units of government or tribal governments may jointly file a single application
4.7 for a grant under this section and may jointly operate a single well testing program.

4.8 Subd. 3. **Grant awards.** (a) The commissioner shall determine grant award amounts
4.9 and shall award grants to applicants in the following order of priority:

4.10 (1) applicants in regions of the state in which the commissioner determines that a
4.11 statistically significant number of private residential wells are contaminated;

4.12 (2) applicants in regions of the state in which the commissioner determines that a
4.13 statistically significant number of private residential wells contain coliform bacteria; and

4.14 (3) other applicants.

4.15 (b) Grants shall be awarded annually.

4.16 Subd. 4. **Contract.** A local unit of government or tribal government may contract with
4.17 a third party, such as a licensed water conditioning contractor, to operate the local or tribal
4.18 well testing program.

4.19 Subd. 5. **Testing by local and tribal well testing programs.** Within the limits of
4.20 available funding, a local or tribal well testing program receiving a grant must provide
4.21 testing for a private residential well when testing is requested by the owner or user of the
4.22 private residential well. A local unit of government or tribal government may limit the
4.23 number of tests performed on a single private residential well or the frequency with which
4.24 a single private residential well is tested in a specific time period.

4.25 Subd. 6. **Tests performed by accredited laboratory.** A local or tribal well testing
4.26 program receiving a grant must ensure that all tests of water samples are performed by an
4.27 accredited laboratory.

4.28 Subd. 7. **Reporting.** The commissioner may require local units of government and tribal
4.29 governments receiving a grant to report to the commissioner information necessary for the
4.30 commissioner to evaluate the grant program.

5.1 Sec. 6. [103I.253] REMEDIATION; ELIGIBILITY FOR PAYMENT AND
5.2 PAYMENT PROCEDURES.

5.3 Subdivision 1. Program established. The commissioner shall administer a program to
5.4 provide payments to claimants for eligible costs to remediate a contaminated private
5.5 residential water supply well. In administering the program, the commissioner must:

5.6 (1) provide information to the public about the program and how to apply for a payment
5.7 under the program;

5.8 (2) assist claimants in submitting applications for a payment;

5.9 (3) establish procedures for the submission of applications, review of applications, and
5.10 decisions on applications; and

5.11 (4) issue payments.

5.12 Subd. 2. Eligibility for payment. (a) To be eligible for a payment under this section,
5.13 an owner or lessee of the property on which the contaminated private residential well is
5.14 located must have an annual family income of less than \$100,000.

5.15 (b) For purposes of paragraph (a), an owner's or lessee's annual family income means
5.16 the aggregate amount of the adjusted gross income of each individual member of the owner's
5.17 or lessee's household. The aggregate amount of adjusted gross income for the owner's or
5.18 lessee's household shall be determined using monthly pay stubs or an alternative means of
5.19 proof of income as determined by the commissioner.

5.20 (c) In consultation with the commissioner of revenue, the commissioner may establish
5.21 additional reporting requirements that the commissioner determines are necessary to
5.22 administer paragraphs (a) and (b), including reporting requirements that the commissioner
5.23 determines are necessary to accurately estimate, project, or otherwise determine an owner's
5.24 or lessee's annual family income.

5.25 (d) The following entities are not eligible for a payment under this section:

5.26 (1) the state of Minnesota;

5.27 (2) an office, department, division, bureau, board, commission, authority, district, or
5.28 agency of the state;

5.29 (3) a public or private institution of higher education;

5.30 (4) a county, town, statutory city, or home rule charter city;

5.31 (5) a federal agency, department, or instrumentality; or

6.1 (6) an interstate agency.

6.2 Subd. 3. **Application.** (a) An application for payment must be submitted at a time and
6.3 in a manner established by the commissioner. In the application, the claimant must provide:

6.4 (1) test results of water from the private residential well that comply with subdivision
6.5 4, paragraph (a);

6.6 (2) an application fee in an amount determined by the commissioner;

6.7 (3) a statement specifying the proposed remediation as recommended by a licensed water
6.8 conditioning contractor or other qualified professional; and

6.9 (4) any other information required by the commissioner.

6.10 (b) By submitting an application under this section, a claimant consents to the
6.11 commissioner or an agent of the commissioner entering the property where the private
6.12 residential well is located to perform any investigations or tests needed to verify information
6.13 in the application.

6.14 (c) The commissioner shall consolidate all applications for an award if more than one
6.15 claimant submits an application related to the same private residential well.

6.16 (d) A claimant may submit an application regardless of when the contamination of the
6.17 private residential well is or could have been discovered.

6.18 Subd. 4. **Determining contamination.** (a) As part of the application submitted under
6.19 subdivision 3, a claimant must provide evidence that the private residential well is
6.20 contaminated by submitting results of tests performed in a manner that assures the validity
6.21 of the results. The tests must have been conducted by an accredited laboratory.

6.22 (b) The commissioner may reject tests that are not sufficiently recent, according to
6.23 standards established by the commissioner.

6.24 (c) The commissioner, at the commissioner's expense, may test additional samples from
6.25 any private residential well for which an application for payment is submitted.

6.26 Subd. 5. **Payment procedures.** The commissioner shall issue payments for remediation
6.27 costs in the order in which the commissioner receives completed applications, and shall
6.28 make determinations on applications and issue payments within 30 days after the
6.29 commissioner receives the completed application.

6.30 Subd. 6. **Eligible costs and issuance of payments.** (a) Upon determinations by the
6.31 commissioner that the claimant's private residential well is contaminated and that the claimant

7.1 meets the requirements in this section and rules for a payment, the commissioner shall issue
7.2 a payment to the claimant for eligible costs of remediation.

7.3 (b) The following items constitute eligible costs of remediation procedures and
7.4 installations:

7.5 (1) the cost of equipment and installation to treat and remove contaminants from the
7.6 water;

7.7 (2) the cost of reconstructing the existing private residential well, including the cost of
7.8 purchasing and installing a pump if necessary;

7.9 (3) the cost of constructing a new private residential well, including the cost of purchasing
7.10 and installing a pump if necessary, and sealing the existing private residential well;

7.11 (4) the cost of obtaining an alternate water supply; and

7.12 (5) notwithstanding subdivision 8, paragraph (a), clause (3), the cost of testing water
7.13 samples for contaminants, if that cost was originally paid for by the claimant.

7.14 (c) The commissioner shall issue payments without regard to fault. Contributory
7.15 negligence shall not be a bar to recovery, and no award shall be decreased due to negligence
7.16 attributable to the claimant or to any person who is entitled to submit a claim.

7.17 (d) The commissioner shall by rule determine the usual and customary cost for each
7.18 eligible cost specified in paragraph (b). In determining the usual and customary costs, the
7.19 commissioner shall consider the range of costs resulting from differences in costs of
7.20 construction, labor, equipment, and supplies throughout the state; soil and bedrock conditions;
7.21 sizes and depths of wells; types of well construction; and other factors that may affect costs.
7.22 The commissioner shall determine payment amounts for individual claimants based on the
7.23 usual and customary costs established under this paragraph, subject to the limitations in
7.24 subdivision 7.

7.25 (e) If the commissioner issues a payment for reconstruction of the existing private
7.26 residential well or construction of a new private residential well, the reconstructed or new
7.27 well must:

7.28 (1) comply with the requirements for such a well in this chapter and Minnesota Rules,
7.29 chapter 4725; and

7.30 (2) be constructed or reconstructed by a well contractor licensed under this chapter.

7.31 (f) If the commissioner issues a payment for installation of a water treatment device, the
7.32 water treatment device must:

8.1 (1) be installed in accordance with Minnesota Rules, chapter 4714, by a water
8.2 conditioning contractor licensed under chapter 326B or a plumber licensed under chapter
8.3 326B;

8.4 (2) comply with Minnesota Rules, part 4714.0611;

8.5 (3) be generally accepted as an appropriate technology to address the contaminant
8.6 identified in the testing; and

8.7 (4) be labeled under Minnesota Rules, part 4714.0611, UPS section 611.1.3 as an
8.8 appropriate technology to address the contaminant identified in the testing.

8.9 Subd. 7. **Limitations on payments.** (a) The payment amount to a claimant shall not be
8.10 greater than 75 percent of the eligible costs of remediation and shall not be greater than
8.11 \$10,000.

8.12 (b) If the contamination can be remedied by point of use treatment, point of entry
8.13 treatment, reconstruction of the private residential well, or construction of a new private
8.14 residential well, the commissioner shall issue a payment for the least expensive means of
8.15 remedying the contamination.

8.16 (c) Payment for obtaining an alternate water supply shall be limited to the amount
8.17 necessary to provide drinking water for a one-year period.

8.18 Subd. 8. **Denial of application for payment.** (a) The commissioner shall deny a
8.19 claimant's application for payment if:

8.20 (1) the application does not comply with this section and rules;

8.21 (2) the application is fraudulent;

8.22 (3) the application requests payment for eligible costs incurred before the commissioner
8.23 determined the application was complete;

8.24 (4) one or more of the contaminants on which the claim is based were introduced into
8.25 the private residential well through the plumbing connected to the well;

8.26 (5) one or more of the contaminants on which the claim is based were introduced into
8.27 the private residential well intentionally by a claimant or by a person who would directly
8.28 benefit by a payment under this section;

8.29 (6) within the past ten years, the commissioner issued a payment under this section for
8.30 a private residential well located on the parcel of land on which the private residential well
8.31 in the claimant's application is located; or

9.1 (7) the payment amount would be less than \$350.

9.2 (b) The commissioner shall not issue a payment for the cost of obtaining an alternate
9.3 water supply incurred before the commissioner confirmed that the private residential well
9.4 was contaminated.

9.5 Subd. 9. **Emergencies.** Notwithstanding subdivision 8, paragraphs (a), clause (3), and
9.6 (b), the commissioner may authorize payments for eligible costs incurred before the
9.7 commissioner determined the application was complete if the commissioner determines
9.8 that an emergency exists. The commissioner shall establish standards and procedures for
9.9 determining when an emergency exists and issuing payments in an emergency.

9.10 Subd. 10. **New claims.** A claimant who receives a payment under this section to remediate
9.11 contaminants through the use of water treatment solutions, construction of a new private
9.12 residential well, or reconstruction of the existing private residential well may subsequently
9.13 submit a new application for payment if:

9.14 (1) new contamination is present and the previous well remediation was properly
9.15 performed; or

9.16 (2) the previous remediation did not eliminate the previous contamination and the
9.17 previous well remediation was properly performed. A claimant may only submit one
9.18 additional application for payment under this clause within ten years after issuance of an
9.19 initial payment under this section.

9.20 Subd. 11. **Penalties.** (a) A claimant who intentionally contaminates or exacerbates the
9.21 contamination of a private residential well for the purpose of obtaining a payment under
9.22 this section, or who submits a fraudulent claim under this section, must:

9.23 (1) pay a penalty to the commissioner in an amount established by the commissioner,
9.24 not to exceed \$1,000; and

9.25 (2) repay to the commissioner any payment received under this section.

9.26 (b) All money received by the commissioner under this subdivision shall be deposited
9.27 in the state treasury and credited to the general fund.

9.28 Sec. 7. **[103I.254] DATA COLLECTION, SHARING, AND AVAILABILITY.**

9.29 Subdivision 1. **Definitions.** For purposes of this section:

9.30 (1) "nonpublic data" has the meaning given in section 13.02, subdivision 9;

10.1 (2) "private data on individuals" has the meaning given in section 13.02, subdivision
10.2 12; and

10.3 (3) "summary data" has the meaning given in section 13.02, subdivision 19.

10.4 Subd. 2. **Test results.** (a) A local or tribal well testing program shall report to the
10.5 commissioner the results for all private residential well tests funded with grant funds under
10.6 section 103I.252. Test results must be reported to the commissioner no later than three
10.7 months after the test results are communicated to the owner or user of the private residential
10.8 well and must be reported in a format and manner specified by the commissioner.

10.9 (b) The commissioner may use the addresses associated with the test results only to track
10.10 the results of multiple tests for the same private residential well.

10.11 (c) Test results reported to the commissioner under this subdivision are classified as
10.12 private data on individuals or nonpublic data. The commissioner may use the test results to
10.13 study and track the water quality of private residential wells across the state and to complete
10.14 the biennial report under section 103I.255. The commissioner may only publish summary
10.15 data derived from the test results.

10.16 Subd. 3. **Remediation payment program.** Data collected or created by the commissioner
10.17 under section 103I.253 related to the operation of the remediation payment program are
10.18 classified as private data on individuals or nonpublic data. The commissioner may use this
10.19 data to study and track water quality of private residential wells across the state and to
10.20 complete the biennial report under section 103I.255. The commissioner may only publish
10.21 summary data derived from this data.

10.22 **Sec. 8. [103I.255] BIENNIAL REPORT.**

10.23 By February 1 of each odd-numbered year, the commissioner shall report to the chairs
10.24 and ranking minority members of the legislative committees with jurisdiction over public
10.25 health policy and finance and water policy, on the operation of the testing program and
10.26 remediation payment program for private residential water supply wells under sections
10.27 103I.25 to 103I.255. In each report, the commissioner must at least:

10.28 (1) provide the following data for the previous two-year period, broken out by county:
10.29 number of private residential wells tested, contaminants tested for, test results, amount spent
10.30 on testing, number of private residential well owners or users who received payment for
10.31 eligible costs of remediating a contaminated well, type of remediation funded, and average
10.32 payment amount;

11.1 (2) specify the common contaminants of private residential wells in each region of the
 11.2 state;

11.3 (3) identify new contaminants that are being found in water from private residential
 11.4 wells and that are of public health concern; and

11.5 (4) make recommendations on changes to the operation or funding of the testing program
 11.6 and remediation payment program for private residential wells to increase testing of private
 11.7 residential wells, decrease exposure to contaminants, and better protect the public health.

11.8 **Sec. 9. [103I.503] DISCIPLINARY ACTION FOR SUBMISSION OF FALSE**
 11.9 **INFORMATION IN CONTAMINATION REMEDIATION APPLICATIONS.**

11.10 The commissioner may suspend, revoke, or impose limitations or conditions on a license
 11.11 or registration of a well contractor or certified representative of a well contractor if the
 11.12 commissioner determines that the well contractor or certified representative of a well
 11.13 contractor knowingly submits false information in a claimant's application for payment
 11.14 under section 103I.253 to remediate a contaminated private residential water supply well.

11.15 **Sec. 10. APPROPRIATIONS.**

11.16 \$..... in fiscal year 2022 and \$..... in fiscal year 2023 are appropriated from the general
 11.17 fund to the commissioner of health for purposes of Minnesota Statutes, sections 103I.25 to
 11.18 103I.255. Of these amounts:

11.19 (1) \$..... in fiscal year 2022 and \$..... in fiscal year 2023 are for grants to local units
 11.20 of government and tribal governments to test private residential water supply wells for
 11.21 contaminants under Minnesota Statutes, section 103I.252; and

11.22 (2) \$..... in fiscal year 2022 and \$..... in fiscal year 2023 are for the remediation payment
 11.23 program under Minnesota Statutes, section 103I.253.