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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH SESSION

H. F. No. 2273

02/15/2012 Authored by Torkelson

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

A bill for an act

1.1 relating to environment; providing for automatic approval of minor permits and
1.2 minor permit amendments if timely action is not taken; prohibiting adoption
1.3 of water quality standards more restrictive than federal standards; requiring
1.4 deposit of monetary penalties from environmental violations be redirected to
1.5 general fund; creating citizen's board; modifying content requirements for
1.6 environmental review; amending Minnesota Statutes 2010, sections 115.073;
1.7 116.02, subdivisions 1, 2, 3, 4, 6; 116.03, subdivision 1; 116D.04, by adding a
1.8 subdivision; Minnesota Statutes 2011 Supplement, sections 84.027, subdivision
1.9 14a; 116.03, subdivision 2b; proposing coding for new law in Minnesota
1.10 Statutes, chapter 115; repealing Minnesota Statutes 2010, section 116.02,
1.11 subdivisions 7, 8.
1.12

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

1.14 Section 1. Minnesota Statutes 2011 Supplement, section 84.027, subdivision 14a,
1.15 is amended to read:

1.16 Subd. 14a. **Permitting efficiency.** (a) It is the goal of the state that environmental
1.17 and resource management permits be issued or denied within 150 days of the submission
1.18 of a substantially completed permit application. The commissioner of natural resources
1.19 shall establish management systems designed to achieve the goal.

1.20 (b) The commissioner shall prepare semiannual permitting efficiency reports that
1.21 include statistics on meeting the goal in paragraph (a). The reports are due February 1
1.22 and August 1 each year. For permit applications that have not met the goal, the report
1.23 must state the reasons for not meeting the goal, steps that will be taken to complete action
1.24 on the application, and the expected timeline. In stating the reasons for not meeting the
1.25 goal, the commissioner shall separately identify delays caused by the responsiveness of
1.26 the proposer, lack of staff, scientific or technical disagreements, or the level of public
1.27 engagement. The report must specify the number of days from initial submission of the

2.1 application to the day of determination that the application is complete. The report for
2.2 August 1 each year must aggregate the data for the year and assess whether program
2.3 or system changes are necessary to achieve the goal. The report must be posted on the
2.4 department's Web site and submitted to the governor and the chairs and ranking minority
2.5 members of the house of representatives and senate committees having jurisdiction over
2.6 natural resources policy and finance.

2.7 (c) The commissioner shall allow electronic submission of environmental review
2.8 and permit documents to the department.

2.9 (d) Beginning July 1, 2011, within 30 business days of application for a permit
2.10 subject to paragraph (a), the commissioner of natural resources shall notify the project
2.11 proposer, in writing, of whether or not the permit application is complete enough for
2.12 processing. If the permit is incomplete, the commissioner must identify where deficiencies
2.13 exist and advise the applicant on how they can be remedied. A resubmittal of the
2.14 application begins a new 30-day review period. If the commissioner fails to notify the
2.15 project proposer of completeness within 30 business days, the application is deemed to be
2.16 substantially complete and subject to the 150-day permitting review period in paragraph
2.17 (a) from the date it was submitted. This paragraph does not apply to an application for a
2.18 permit that is subject to a grant or loan agreement under chapter 446A.

2.19 (e) The commissioner shall approve or deny within 60 days an application for a
2.20 minor permit or a minor permit amendment. Failure of the commissioner to deny an
2.21 application for a minor permit or minor permit amendment within 60 days is approval of
2.22 the permit. If the commissioner receives an application that does not contain all required
2.23 information, the 60-day limit starts over only if the commissioner notifies the applicant
2.24 as required under paragraph (d).

2.25 (f) By July 1, 2012, the commissioner shall review all types of permits issued by the
2.26 department, determine the permit and amendment types the commissioner deems minor
2.27 for purposes of paragraph (e), and post a list of the permit and amendment types on the
2.28 department's Web site. The commissioner shall periodically review, update, and post the
2.29 list of permits and permit amendment types subject to paragraph (e) at least every five
2.30 years. Permits and permit amendments may not be deemed minor under this paragraph
2.31 if approval of a permit or permit amendment according to paragraph (e) would be in
2.32 violation of federal law.

2.33 **EFFECTIVE DATE.** Paragraph (f) is effective the day following final enactment.

2.34 **Sec. 2. [115.035] WATER QUALITY STANDARDS NO MORE RESTRICTIVE**
2.35 **THAN FEDERAL STANDARDS.**

3.1 Notwithstanding section 115.03 or 115.44 or any other law to the contrary, the
 3.2 commissioner of the Pollution Control Agency shall not adopt water quality standards that
 3.3 are more restrictive than federal water quality standards after June 30, 2012. Water quality
 3.4 standards that were adopted before that date and that exceed federal standards remain in
 3.5 effect, but shall not be made more restrictive unless required under federal law.

3.6 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.7 Sec. 3. Minnesota Statutes 2010, section 115.073, is amended to read:

3.8 **115.073 ENFORCEMENT FUNDING.**

3.9 Except as provided in section 115C.05, all money recovered by the state under this
 3.10 chapter and chapters 115A and 116, including civil penalties and money paid under an
 3.11 agreement, stipulation, or settlement, excluding money paid for past due fees or taxes,
 3.12 must be deposited in the state treasury and credited to the ~~environmental~~ general fund.

3.13 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.14 Sec. 4. Minnesota Statutes 2010, section 116.02, subdivision 1, is amended to read:

3.15 Subdivision 1. **Creation.** A pollution control agency, designated as the Minnesota
 3.16 Pollution Control Agency, ~~is~~ and the Minnesota Pollution Control Agency Citizen's Board
 3.17 are hereby created. The ~~agency~~ Minnesota Pollution Control Agency Citizen's Board shall
 3.18 consist of the commissioner and eight members appointed by the governor, by and with the
 3.19 advice and consent of the senate. One of such members shall be a person knowledgeable
 3.20 in the field of agriculture and one shall be representative of organized labor.

3.21 Sec. 5. Minnesota Statutes 2010, section 116.02, subdivision 2, is amended to read:

3.22 Subd. 2. **Terms, compensation, removal, vacancies.** The membership terms,
 3.23 compensation, removal of members, and filling of vacancies on the ~~agency~~ Minnesota
 3.24 Pollution Control Agency Citizen's Board shall be as provided in section 15.0575.

3.25 Sec. 6. Minnesota Statutes 2010, section 116.02, subdivision 3, is amended to read:

3.26 Subd. 3. **Membership.** The membership of the Minnesota Pollution Control Agency
 3.27 Citizen's Board shall be broadly representative of the skills and experience necessary to
 3.28 effectuate the policy of sections 116.01 to 116.075, except that no member other than the
 3.29 commissioner shall be an officer or employee of the state or federal government. Only two
 3.30 members at one time may be officials or employees of a municipality or any governmental

4.1 subdivision, but neither may be a member ex officio or otherwise on the management
4.2 board of a municipal sanitary sewage disposal system.

4.3 Sec. 7. Minnesota Statutes 2010, section 116.02, subdivision 4, is amended to read:

4.4 Subd. 4. **Chair.** The commissioner shall serve as chair of the ~~agency~~ Minnesota
4.5 Pollution Control Agency Citizen's Board. The ~~agency~~ Minnesota Pollution Control
4.6 Agency Citizen's Board shall elect such other officers as it deems necessary.

4.7 Sec. 8. Minnesota Statutes 2010, section 116.02, subdivision 6, is amended to read:

4.8 Subd. 6. **Required decisions.** The ~~agency~~ Minnesota Pollution Control Agency
4.9 Citizen's Board shall:

4.10 (1) ~~make final decisions on the following matters:~~

4.11 ~~(1) a petition for the preparation of an environmental assessment worksheet, if the~~
4.12 ~~project proposer or a person commenting on the proposal requests that the decision be~~
4.13 ~~made by the agency and the agency requests that it make the decision under subdivision 8;~~

4.14 ~~(2) the need for an environmental impact statement following preparation of an~~
4.15 ~~environmental assessment worksheet under applicable rules, if:~~

4.16 ~~(i) the agency has received a request for an environmental impact statement;~~

4.17 ~~(ii) the project proposer or a person commenting on the proposal requests that the~~
4.18 ~~declaration be made by the agency and the agency requests that it make the decision~~
4.19 ~~under subdivision 8; or~~

4.20 ~~(iii) the commissioner is recommending preparation of an environmental impact~~
4.21 ~~statement;~~

4.22 ~~(3) the scope and adequacy of environmental impact statements;~~

4.23 ~~(4) issuance, reissuance, modification, or revocation of a permit if:~~

4.24 ~~(i) a variance is sought in the permit application or a contested case hearing request~~
4.25 ~~is pending; or~~

4.26 ~~(ii) the permit applicant, the permittee, or a person commenting on the permit action~~
4.27 ~~requests that the decision be made by the agency and the agency requests that it make~~
4.28 ~~the decision under subdivision 8;~~

4.29 ~~(5) final adoption or amendment of agency rules for which a public hearing is~~
4.30 ~~required under section 14.25 or for which the commissioner decides to proceed directly to~~
4.31 ~~a public hearing under section 14.14, subdivision 1~~ rules implementing the substantive
4.32 statutes charged to the Minnesota Pollution Control Agency for administration;

4.33 ~~(6) approval or denial of an application for a variance from an agency rule if:~~

4.34 ~~(i) granting the variance request would change an air, soil, or water quality standard;~~

- 5.1 ~~(ii) the commissioner has determined that granting the variance would have a~~
 5.2 ~~significant environmental impact; or~~
 5.3 ~~(iii) the applicant or a person commenting on the variance request requests that the~~
 5.4 ~~decision be made by the agency and the agency requests that it make the decision under~~
 5.5 ~~subdivision 8; and~~
 5.6 ~~(7) whether to reopen, rescind, or reverse a decision of the agency.~~
 5.7 (2) make additional decisions in response to the commissioner's request; and
 5.8 (3) provide advice to the commissioner at the commissioner's request.

5.9 Sec. 9. Minnesota Statutes 2010, section 116.03, subdivision 1, is amended to read:

5.10 Subdivision 1. **Office.** (a) The Office of Commissioner of the Pollution Control
 5.11 Agency is created and is under the supervision and control of the commissioner, who is
 5.12 appointed by the governor under the provisions of section 15.06.

5.13 (b) The commissioner may appoint a deputy commissioner and assistant
 5.14 commissioners who shall be in the unclassified service.

5.15 (c) The commissioner shall make all decisions on behalf of the agency ~~that are not~~
 5.16 ~~required to be made by the agency~~ other than rulemaking decisions to be made by the
 5.17 Minnesota Pollution Control Agency Citizen's Board under section 116.02.

5.18 Sec. 10. Minnesota Statutes 2011 Supplement, section 116.03, subdivision 2b, is
 5.19 amended to read:

5.20 Subd. 2b. **Permitting efficiency.** (a) It is the goal of the state that environmental and
 5.21 resource management permits be issued or denied within 150 days of the submission of a
 5.22 substantially completed permit application. The commissioner of the Pollution Control
 5.23 Agency shall establish management systems designed to achieve the goal.

5.24 (b) The commissioner shall prepare semiannual permitting efficiency reports that
 5.25 include statistics on meeting the goal in paragraph (a). The reports are due February 1
 5.26 and August 1 each year. For permit applications that have not met the goal, the report
 5.27 must state the reasons for not meeting the goal, steps that will be taken to complete action
 5.28 on the application, and the expected timeline. In stating the reasons for not meeting the
 5.29 goal, the commissioner shall separately identify delays caused by the responsiveness of
 5.30 the proposer, lack of staff, scientific or technical disagreements, or the level of public
 5.31 engagement. The report must specify the number of days from initial submission of the
 5.32 application to the day of determination that the application is complete. The report for
 5.33 August 1 each year must aggregate the data for the year and assess whether program
 5.34 or system changes are necessary to achieve the goal. The report must be posted on the

6.1 agency's Web site and submitted to the governor and the chairs and ranking minority
 6.2 members of the house of representatives and senate committees having jurisdiction over
 6.3 environment policy and finance.

6.4 (c) The commissioner shall allow electronic submission of environmental review
 6.5 and permit documents to the agency.

6.6 (d) Beginning July 1, 2011, within 30 business days of application for a permit
 6.7 subject to paragraph (a), the commissioner of the Pollution Control Agency shall notify
 6.8 the project proposer, in writing, of whether or not the permit application is complete
 6.9 enough for processing. If the permit is incomplete, the commissioner must identify where
 6.10 deficiencies exist and advise the applicant on how they can be remedied. A resubmittal of
 6.11 the application begins a new 30-day review period. If the commissioner fails to notify the
 6.12 project proposer of completeness within 30 business days, the application is deemed to be
 6.13 substantially complete and subject to the 150-day permitting review period in paragraph
 6.14 (a) from the date it was submitted. This paragraph does not apply to an application for a
 6.15 permit that is subject to a grant or loan agreement under chapter 446A.

6.16 (e) The commissioner shall approve or deny within 60 days an application for a
 6.17 minor permit or minor permit amendment. Failure of the commissioner to deny an
 6.18 application for a minor permit or minor permit amendment within 60 days is approval of
 6.19 the permit. If the commissioner receives an application that does not contain all required
 6.20 information, the 60-day limit starts over only if the commissioner notifies the applicant
 6.21 as required under paragraph (d).

6.22 (f) By July 1, 2012, the commissioner shall review all types of permits issued by
 6.23 the agency, determine the permit and amendment types the commissioner deems minor
 6.24 for purposes of paragraph (e), and post a list of the permit and amendment types on the
 6.25 agency's Web site. The commissioner shall periodically review, update, and post the
 6.26 list of permits and permit amendment types subject to paragraph (e) at least every five
 6.27 years. Permits and permit amendments may not be deemed minor under this paragraph
 6.28 if approval of a permit or permit amendment according to paragraph (e) would be in
 6.29 violation of federal law.

6.30 **EFFECTIVE DATE.** Paragraph (f) is effective the day following final enactment.

6.31 Sec. 11. Minnesota Statutes 2010, section 116D.04, is amended by adding a
 6.32 subdivision to read:

6.33 **Subd. 15. Duplicative permit information; environmental assessment**
 6.34 **worksheets.** The board shall not require, unless necessary, information in an

7.1 environmental assessment worksheet for a proposed action when the information is also
7.2 required as part of any necessary permitting process for the proposed action.

7.3 Sec. 12. **REPEALER.**

7.4 Minnesota Statutes 2010, section 116.02, subdivisions 7 and 8, are repealed.