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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. **2989**

03/20/2023 Authored by Reyer; Lee, F.; Hassan; Xiong; Keeler and others
The bill was read for the first time and referred to the Committee on Capital Investment

- 1.1 A bill for an act
- 1.2 relating to capital investment; creating a new green infrastructure grant program;
- 1.3 amending criteria for certain projects funded through the clean water and drinking
- 1.4 water revolving funds; requiring rules and the prioritization of clean water and
- 1.5 drinking water projects in certain project priority lists to factor in new criteria;
- 1.6 appropriating money; amending Minnesota Statutes 2022, sections 116.182,
- 1.7 subdivision 5; 446A.07, subdivisions 1a, 7, 8; 446A.081, subdivisions 1, 8, 9, 12;
- 1.8 proposing coding for new law in Minnesota Statutes, chapter 116.
- 1.9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:
- 1.10 Section 1. Minnesota Statutes 2022, section 116.182, subdivision 5, is amended to read:
- 1.11 Subd. 5. **Rules.** The agency shall adopt rules for the administration of the financial
- 1.12 assistance program. For wastewater treatment projects, the rules must include:
- 1.13 (1) application requirements;
- 1.14 (2) criteria for the ranking of projects in order of priority based on factors including:
- 1.15 (i) the type of project and;
- 1.16 (ii) the degree of environmental impact, and;
- 1.17 (iii) scenic and wild river standards; and
- 1.18 (iv) affordability criteria, as defined under section 446A.07, subdivision 1a, paragraph
- 1.19 (b); and
- 1.20 (3) criteria for determining essential project components.

2.1 Sec. 2. [116.196] GREEN INFRASTRUCTURE GRANT PROGRAM.

2.2 Subdivision 1. Establishment of program. The commissioner shall establish a green
2.3 infrastructure grant program to provide grants for green infrastructure projects.

2.4 Subd. 2. Definitions. (a) For the purposes of this section, the following terms have the
2.5 meanings given.

2.6 (b) "Commissioner" means the commissioner of the Pollution Control Agency.

2.7 (c) "Green infrastructure" has the meaning given in United States Code, title 33, section
2.8 1362, as amended through December 31, 2019, and also includes trails, bridges, roads, and
2.9 recreational amenities designed to mitigate stormwater impacts.

2.10 (d) "Political subdivision" means a county, home rule charter or statutory city, town, or
2.11 other political subdivision of the state.

2.12 (e) "Project" means a green infrastructure project or stormwater infrastructure project
2.13 to be owned and administered by a political subdivision.

2.14 (f) "Stormwater infrastructure" means a project that does one or more of the following:

2.15 (1) increases stormwater capacity or stormwater storage;

2.16 (2) addresses environmental damage caused by weather extremes;

2.17 (3) prevents localized flooding;

2.18 (4) creates stormwater systems that can manage flows from heavy rains;

2.19 (5) addresses public safety concerns caused by undersized stormwater systems; or

2.20 (6) ensures continuation of critical services during severe weather.

2.21 Subd. 3. Eligibility. A political subdivision is eligible to apply for and receive a grant
2.22 under this section.

2.23 Subd. 4. Application. An application by a political subdivision for a grant under this
2.24 section must be made at the time and in the form and manner prescribed by the commissioner.
2.25 The commissioner must consult with the commissioner of management and budget on the
2.26 form of the application, the content of a request for proposals published to solicit applications
2.27 for the program under this section, and any prioritization criteria the commissioner intends
2.28 to apply to the program.

2.29 Subd. 5. Eligible project. A grant may be used to acquire land or an interest in land,
2.30 predesign, design, renovate, construct, furnish, and equip a project that is qualified to be
2.31 funded by state general obligation bonds under the Minnesota Constitution, article XI,

3.1 section 5, paragraph (a). Money from the general fund may also be used for green
 3.2 infrastructure and stormwater infrastructure that would not qualify to be funded by state
 3.3 general obligation bonds.

3.4 Subd. 6. **Grants.** (a) To be eligible for a grant under this section, a political subdivision
 3.5 must timely submit an application to the commissioner and pass a resolution in support of
 3.6 the project. The commissioner may give priority to a political subdivision that provides a
 3.7 local match of funds for the project.

3.8 (b) A grant awarded under this section must be no less than the amount required to
 3.9 complete the project, less any local funds committed to the project as required by section
 3.10 16A.502.

3.11 (c) A grant under this section is in addition to any loan, principal forgiveness, or grant
 3.12 awarded by the Public Facilities Authority under section 446A.07, subdivision 8, paragraph
 3.13 (a), clause (8), or 446A.081, subdivision 9, paragraph (a), clause (9).

3.14 Subd. 7. **Cancellation.** A grant under this section is available until the project is
 3.15 completed or abandoned subject to section 16A.642.

3.16 **EFFECTIVE DATE.** This section is effective July 1, 2023.

3.17 Sec. 3. Minnesota Statutes 2022, section 446A.07, subdivision 1a, is amended to read:

3.18 Subd. 1a. **Definitions.** (a) For the purposes of this section, the terms in this subdivision
 3.19 have the meanings given ~~them~~.

3.20 (b) "Affordability criteria," pursuant to section 603(i)(2) of the federal Clean Water Act,
 3.21 means a project service area that includes, in whole or in part, a census tract where at least
 3.22 three of the following apply as determined using the most recently published data from the
 3.23 United States Census Bureau or United States Centers for Disease Control and Prevention:

3.24 (1) 20 percent or more of the residents have income below the federal poverty thresholds;

3.25 (2) the tract has a United States Centers for Disease Control and Prevention Social
 3.26 Vulnerability Index greater than 0.80;

3.27 (3) the upper limit of the lowest quintile of household income is less than the state upper
 3.28 limit of the lowest quintile;

3.29 (4) the housing vacancy rate is greater than the state average; or

3.30 (5) the percent of the population receiving Supplemental Nutrition Assistance Program
 3.31 (SNAP) benefits is greater than the state average.

4.1 ~~(b)~~(c) "Eligible recipients" means governmental units or other entities eligible to receive
 4.2 loans or other assistance as provided in title VI of the Federal Water Pollution Control Act.

4.3 ~~(e)~~(d) "Federal Water Pollution Control Act" means the Federal Water Pollution Control
 4.4 Act, as amended, United States Code, title 33, sections 1251 et seq.

4.5 (e) "Green infrastructure" has the meaning given in section 116.196, subdivision 2,
 4.6 paragraph (c).

4.7 Sec. 4. Minnesota Statutes 2022, section 446A.07, subdivision 7, is amended to read:

4.8 Subd. 7. **Loan conditions.** (a) When making loans from the clean water revolving fund,
 4.9 the authority shall comply with the conditions of the Federal Water Pollution Control Act,
 4.10 including the criteria in this subdivision.

4.11 (b) Loans must be made at or below market interest rates, including interest-free loans,
 4.12 for terms not to exceed those allowed under the Federal Water Pollution Control Act.

4.13 (c) The annual principal and interest payments must begin no later than one year after
 4.14 completion of the project. Loans must be fully amortized no later than 20 years after project
 4.15 completion, unless the recipient's ~~average annual residential wastewater system cost after~~
 4.16 ~~completion of the project would exceed 1.4 percent of median household income in the~~
 4.17 ~~recipient governmental unit or entity~~ project meets affordability criteria, in which case the
 4.18 loan must be fully amortized no later than 30 years after project completion.

4.19 (d) An eligible recipient shall establish a dedicated source of revenue for repayment of
 4.20 the loan.

4.21 (e) The fund must be credited with all payments of principal and interest on all loans.

4.22 (f) A loan may not be used to pay operating expenses or current obligations, unless
 4.23 specifically allowed by the Federal Water Pollution Control Act.

4.24 (g) A loan made by the authority must be secured by notes or bonds of the eligible
 4.25 recipient of the loan.

4.26 (h) Notwithstanding Minnesota Rules, part 7380.0272, the interest rate for loans made
 4.27 for the purpose of green infrastructure is zero percent.

4.28 Sec. 5. Minnesota Statutes 2022, section 446A.07, subdivision 8, is amended to read:

4.29 Subd. 8. **Other uses of revolving fund.** (a) The clean water revolving fund may be used
 4.30 as provided in title VI of the Federal Water Pollution Control Act, including the following
 4.31 uses:

5.1 (1) to buy or refinance the debt obligation of governmental units for treatment works
5.2 where debt was incurred and construction begun after March 7, 1985, at or below market
5.3 rates;

5.4 (2) to guarantee or purchase insurance for local obligations to improve credit market
5.5 access or reduce interest rates;

5.6 (3) to provide a source of revenue or security for the payment of principal and interest
5.7 on revenue or general obligation bonds issued by the authority if the bond proceeds are
5.8 deposited in the fund;

5.9 (4) to provide loan guarantees, loans, or set-aside for similar revolving funds established
5.10 by a governmental unit other than state agencies, or state agencies under sections 17.117,
5.11 103F.725, subdivision 1a, and 116J.617;

5.12 (5) to earn interest on fund accounts;

5.13 (6) to pay the reasonable costs incurred by the authority and the Pollution Control Agency
5.14 of administering the fund and conducting activities required under the Federal Water Pollution
5.15 Control Act, including water quality management planning under section 205(j) of the act
5.16 and water quality standards continuing planning under section 303(e) of the act;

5.17 (7) to provide principal forgiveness or grants to the extent permitted under the Federal
5.18 Water Pollution Control Act and other federal law, ~~based on the criteria and requirements~~
5.19 ~~established for the wastewater infrastructure funding program under section 446A.072 to~~
5.20 projects that meet affordability criteria; and

5.21 (8) to provide loans, principal forgiveness, or grants, including grants under section
5.22 116.196 in coordination with the Pollution Control Agency, to the extent permitted under
5.23 the Federal Water Pollution Control Act and other federal law to address green infrastructure,
5.24 water or energy efficiency improvements, or other environmentally innovative activities.

5.25 (b) Amounts spent under paragraph (a), clause (6), may not exceed the amount allowed
5.26 under the Federal Water Pollution Control Act.

5.27 (c) Principal forgiveness or grants provided under paragraph (a), clause (8), may not
5.28 exceed 25 percent of the eligible project costs as determined by the Pollution Control Agency
5.29 for project components directly related to green infrastructure, water or energy efficiency
5.30 improvements, or other environmentally innovative activities, up to a maximum of
5.31 \$1,000,000. The authority must use the maximum amount of federal funds available for the
5.32 purposes of green infrastructure each fiscal year beginning in fiscal year 2024. If in any
5.33 fiscal year there is no maximum amount stated in federal law, regulation, or guidance as

6.1 being available for the purposes of green infrastructure, the authority must use no less than
 6.2 20 percent of the federal funds in the clean water revolving fund for green infrastructure
 6.3 and stormwater infrastructure projects eligible for funding through the green infrastructure
 6.4 grant program under section 116.196.

6.5 Sec. 6. Minnesota Statutes 2022, section 446A.081, subdivision 1, is amended to read:

6.6 Subdivision 1. **Definitions.** (a) For the purposes of this section, the terms in this
 6.7 subdivision have the meanings given ~~them~~.

6.8 (b) "Disadvantaged community," pursuant to section 1452(d) of the federal Safe Drinking
 6.9 Water Act, means a project service area that includes, in whole or in part, a census tract
 6.10 where at least three of the following apply as determined using the most recently published
 6.11 data from the United States Census Bureau or United States Centers for Disease Control
 6.12 and Prevention:

6.13 (1) 20 percent or more of the residents have income below the federal poverty thresholds;

6.14 (2) the tract has a United States Centers for Disease Control and Prevention Social
 6.15 Vulnerability Index greater than 0.80;

6.16 (3) the upper limit of the lowest quintile of household income is less than the state upper
 6.17 limit of the lowest quintile;

6.18 (4) the housing vacancy rate is greater than the state average; or

6.19 (5) the percent of the population receiving Supplemental Nutrition Assistance Program
 6.20 (SNAP) benefits is greater than the state average.

6.21 ~~(b)~~ (c) "Eligible recipient" means governmental units or other entities eligible to receive
 6.22 loans or other assistance as provided in the federal Safe Drinking Water Act.

6.23 ~~(e)~~ (d) "Federal Safe Drinking Water Act" means the federal Safe Drinking Water Act,
 6.24 as amended, United States Code, title 42, sections 300f et seq.

6.25 (e) "Green infrastructure" has the meaning given in section 116.196, subdivision 2,
 6.26 paragraph (c).

6.27 Sec. 7. Minnesota Statutes 2022, section 446A.081, subdivision 8, is amended to read:

6.28 Subd. 8. **Loan conditions.** (a) When making loans from the drinking water revolving
 6.29 fund, the authority shall comply with the conditions of the federal Safe Drinking Water Act,
 6.30 including the criteria in this subdivision.

7.1 (b) Loans must be made at or below market interest rates, including zero interest loans,
7.2 for terms not to exceed those allowed under the federal Safe Drinking Water Act.

7.3 (c) The annual principal and interest payments must begin no later than one year after
7.4 completion of the project. Loans must be amortized no later than 20 years after project
7.5 completion, unless the ~~recipient's average annual residential drinking water system cost~~
7.6 ~~after completion of the project would exceed 1.2 percent of median household income in~~
7.7 ~~the recipient governmental unit or entity~~ project is identified as being located in a
7.8 disadvantaged community, in which case the loan must be fully amortized no later than 30
7.9 years after project completion.

7.10 (d) A loan recipient must identify and establish a dedicated source of revenue for
7.11 repayment of the loan, and provide for a source of revenue to properly operate, maintain,
7.12 and repair the water system.

7.13 (e) The fund must be credited with all payments of principal and interest on all loans,
7.14 except the costs as permitted under section 446A.04, subdivision 5, paragraph (a).

7.15 (f) A loan may not be used to pay operating expenses or current obligations, unless
7.16 specifically allowed by the federal Safe Drinking Water Act.

7.17 (g) A loan made by the authority must be secured by notes or bonds of the governmental
7.18 unit and collateral to be determined by the authority for private borrowers.

7.19 (h) Notwithstanding Minnesota Rules, part 7380.0272, the interest rate for loans made
7.20 for the purpose of green infrastructure is zero percent.

7.21 Sec. 8. Minnesota Statutes 2022, section 446A.081, subdivision 9, is amended to read:

7.22 Subd. 9. **Other uses of fund.** (a) The drinking water revolving loan fund may be used
7.23 as provided in the act, including the following uses:

7.24 (1) to buy or refinance the debt obligations, at or below market rates, of public water
7.25 systems for drinking water systems, where the debt was incurred after the date of enactment
7.26 of the act, for the purposes of construction of the necessary improvements to comply with
7.27 the national primary drinking water regulations under the federal Safe Drinking Water Act;

7.28 (2) to purchase or guarantee insurance for local obligations to improve credit market
7.29 access or reduce interest rates;

7.30 (3) to provide a source of revenue or security for the payment of principal and interest
7.31 on revenue or general obligation bonds issued by the authority if the bond proceeds are
7.32 deposited in the fund;

8.1 (4) to provide loans or loan guarantees for similar revolving funds established by a
8.2 governmental unit or state agency;

8.3 (5) to earn interest on fund accounts;

8.4 (6) to pay the reasonable costs incurred by the authority, the Department of Employment
8.5 and Economic Development, and the Department of Health for conducting activities as
8.6 authorized and required under the act up to the limits authorized under the act;

8.7 (7) to develop and administer programs for water system supervision, source water
8.8 protection, and related programs required under the act;

8.9 (8) to provide principal forgiveness or grants to the extent permitted under the federal
8.10 Safe Drinking Water Act and other federal law, ~~based on the criteria and requirements~~
8.11 ~~established for drinking water projects under the water infrastructure funding program under~~
8.12 ~~section 446A.072~~ to disadvantaged communities;

8.13 (9) to provide loans, principal forgiveness or grants, including grants under section
8.14 116.196 in coordination with the Pollution Control Agency, to the extent permitted under
8.15 the federal Safe Drinking Water Act and other federal law to address green infrastructure,
8.16 water or energy efficiency improvements, or other environmentally innovative activities;

8.17 (10) to provide principal forgiveness, or grants for 80 percent of project costs up to a
8.18 maximum of \$100,000 for projects needed to comply with national primary drinking water
8.19 standards for an existing nonmunicipal community public water system; and

8.20 (11) to provide principal forgiveness or grants to the extent permitted under the federal
8.21 Safe Drinking Water Act and other federal laws for 50 percent of the project costs up to a
8.22 maximum of \$250,000 for projects to replace the privately owned portion of drinking water
8.23 lead service lines.

8.24 (b) Principal forgiveness or grants provided under paragraph (a), clause (9), may not
8.25 exceed 25 percent of the eligible project costs as determined by the Department of Health
8.26 for project components directly related to green infrastructure, water or energy efficiency
8.27 improvements, or other environmentally innovative activities, up to a maximum of
8.28 \$1,000,000. The authority must use the maximum amount of federal funds available for the
8.29 purposes of green infrastructure each fiscal year beginning in fiscal year 2024. If in any
8.30 fiscal year there is no maximum amount stated in federal law, regulation, or guidance as
8.31 being available for the purposes of green infrastructure, the authority must use no less than
8.32 20 percent of the federal funds in the drinking water revolving loan fund for green

9.1 infrastructure and stormwater infrastructure projects eligible for funding through the green
9.2 infrastructure grant program under section 116.196.

9.3 Sec. 9. Minnesota Statutes 2022, section 446A.081, subdivision 12, is amended to read:

9.4 Subd. 12. **Rules of the department.** (a) The Department of Health shall adopt rules
9.5 relating to the procedures for administration of the Department of Health's duties under the
9.6 act and this section.

9.7 (b) Rules that establish criteria for ranking new or upgraded water supply system projects
9.8 in order of priority must assign priority points for projects located in disadvantaged
9.9 communities.

9.10 Sec. 10. **INTERIM PROJECT PRIORITY LIST RECOMMENDATIONS;**
9.11 **POLLUTION CONTROL AGENCY.**

9.12 Until rules factoring in affordability criteria are adopted under Minnesota Statutes,
9.13 section 116.182, subdivision 5, the commissioner of the Pollution Control Agency must
9.14 review each project priority list developed and provide recommendations to the Public
9.15 Facilities Authority that prioritize the projects based on affordability criteria. The Public
9.16 Facilities Authority must use the recommendations when developing the intended use plan
9.17 developed under Minnesota Statutes, section 446A.07.

9.18 Sec. 11. **INTERIM PROJECT PRIORITY LIST RECOMMENDATIONS;**
9.19 **COMMISSIONER OF HEALTH.**

9.20 Until rules factoring in disadvantaged communities are adopted under Minnesota Statutes,
9.21 section 446A.081, subdivision 12, the commissioner of health must review each project
9.22 priority list developed and provide recommendations to the Public Facilities Authority that
9.23 prioritize the projects based on being located in a disadvantaged community. The Public
9.24 Facilities Authority must use the recommendations when developing the intended use plan
9.25 developed under Minnesota Statutes, section 446A.081, subdivision 5.

9.26 Sec. 12. **APPROPRIATIONS; GREEN INFRASTRUCTURE PROGRAM.**

9.27 Subdivision 1. **Appropriation; state general obligation bonds.** \$..... is appropriated
9.28 from the bond proceeds fund to the Pollution Control Agency for grants under Minnesota
9.29 Statutes, section 116.196.

10.1 Subd. 2. **Appropriation; general fund.** \$..... in fiscal year 2024 is appropriated from
10.2 the general fund to the Pollution Control Agency for grants under Minnesota Statutes, section
10.3 116.196.

10.4 Subd. 3. **Bond sale.** To provide the money appropriated in this section from the bond
10.5 proceeds fund, the commissioner of management and budget shall sell and issue bonds of
10.6 the state in an amount up to \$..... in the manner, upon the terms, and with the effect
10.7 prescribed by Minnesota Statutes, sections 16A.631 to 16A.675, and by the Minnesota
10.8 Constitution, article XI, sections 4 to 7.

10.9 **EFFECTIVE DATE.** This section is effective July 1, 2023.

10.10 **Sec. 13. APPROPRIATION; GREEN INFRASTRUCTURE PROJECTS.**

10.11 (a) Of an appropriation in fiscal year 2024 for the green infrastructure grant program
10.12 under Minnesota Statutes, section 116.196, the Pollution Control Agency must award grants
10.13 to:

10.14 (1) the Minneapolis Park and Recreation Board to replace, relocate, and improve public
10.15 park and water management infrastructure along Shingle, Bassett's, and Minnehaha Creeks
10.16 in Minneapolis; and

10.17 (2) Dakota County for a green infrastructure pilot project on a 2.4-mile segment of the
10.18 Mississippi River Greenway.

10.19 (b) A grant awarded under this section must be no less than the amount required to
10.20 complete the project, less any local money committed to the project, as required by Minnesota
10.21 Statutes, section 16A.502.

10.22 (c) The Pollution Control Agency must not award a grant under this section unless the
10.23 application required under Minnesota Statutes, section 116.196, subdivision 4, has been
10.24 completed.

10.25 **EFFECTIVE DATE.** This section is effective July 1, 2023.