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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 1472

02/21/2019 Authored by Claflin
The bill was read for the first time and referred to the Committee on Environment and Natural Resources Policy
02/28/2019 Adoption of Report: Re-referred to the Committee on Ways and Means

1.1 A bill for an act
1.2 relating to waters; providing for electronic transmission of certain information;
1.3 amending Minnesota Statutes 2018, sections 103G.241, subdivisions 1, 3;
1.4 103G.287, subdivision 1; 103G.311, subdivisions 2, 5; 103G.315, subdivision 8;
1.5 103G.408; 103G.615, subdivision 3a.

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

1.7 Section 1. Minnesota Statutes 2018, section 103G.241, subdivision 1, is amended to read:

1.8 Subdivision 1. Conditions to affect public waters. An agent or employee of another
1.9 may not construct, reconstruct, remove, or make a change in a reservoir, dam, or waterway
1.10 obstruction on a public water or in any manner change or diminish the course, current, or
1.11 cross section of public waters unless the agent or employee has:

1.12 (1) obtained a signed statement from the property owner stating that the permits required
1.13 for the work have been obtained or a permit is not required; and

1.14 (2) mailed or electronically transmitted a copy of the statement to the regional office of
1.15 the Department of Natural Resources where the proposed work is located.

1.16 Sec. 2. Minnesota Statutes 2018, section 103G.241, subdivision 3, is amended to read:

1.17 Subd. 3. Form for compliance. The commissioner shall develop a form to be distributed
1.18 to contractors' associations and county auditors to comply with this section. The form must
1.19 include:

1.20 (1) a listing of the activities for which a permit is required;

1.21 (2) a description of the penalties for violating this chapter;

2.1 (3) the mailing addresses, electronic mail addresses, and telephone numbers of the  
2.2 regional offices of the Department of Natural Resources;

2.3 (4) a statement that water inventory maps completed according to section 103G.201 are  
2.4 on file with the auditors of the counties; and

2.5 (5) spaces for a description of the work and the names, mailing addresses, electronic  
2.6 mail addresses, and telephone numbers of the person authorizing the work and the agent or  
2.7 employee proposing to undertake it.

2.8 Sec. 3. Minnesota Statutes 2018, section 103G.287, subdivision 1, is amended to read:

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

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

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

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

2.20 (4) the results of an aquifer test completed according to specifications approved by the  
2.21 commissioner. The test must be conducted at the maximum pumping rate requested in the  
2.22 application and for a length of time adequate to assess or predict impacts to other wells and  
2.23 surface water and groundwater resources. The permit applicant is responsible for all costs  
2.24 related to the aquifer test, including the construction of groundwater and surface water  
2.25 monitoring installations, and water level readings before, during, and after the aquifer test;  
2.26 and

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

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

3.1 (c) The commissioner shall provide an assessment of a proposed well needing a  
3.2 groundwater appropriation permit. The commissioner shall evaluate the information submitted  
3.3 as required under section 103I.205, subdivision 1, paragraph (e), and determine whether  
3.4 the anticipated appropriation request is likely to meet the applicable requirements of this  
3.5 chapter. If the appropriation request is likely to meet applicable requirements, the  
3.6 commissioner shall provide the person submitting the information with a letter or  
3.7 electronically transmitted notice providing preliminary approval to construct the well and  
3.8 the requirements, including test-well information, that will be needed to obtain the permit.

3.9 (d) The commissioner must provide an applicant denied a groundwater use permit or  
3.10 issued a groundwater use permit that is reduced or restricted from the original request with  
3.11 all information the commissioner used in making the determination, including hydrographs,  
3.12 flow tests, aquifer tests, topographic maps, field reports, photographs, and proof of equipment  
3.13 calibration.

3.14 Sec. 4. Minnesota Statutes 2018, section 103G.311, subdivision 2, is amended to read:

3.15 Subd. 2. **Hearing notice.** (a) The hearing notice on an application must include:

3.16 (1) the date, place, and time fixed by the commissioner for the hearing;

3.17 (2) the waters affected, the water levels sought to be established, or control structures  
3.18 proposed; and

3.19 (3) the matters prescribed by sections 14.57 to 14.59 and rules adopted thereunder.

3.20 (b) A summary of the hearing notice must be published by the commissioner at the  
3.21 expense of the applicant or, if the proceeding is initiated by the commissioner in the absence  
3.22 of an applicant, at the expense of the commissioner.

3.23 (c) The summary of the hearing notice must be:

3.24 (1) published once a week for two successive weeks before the day of hearing in a legal  
3.25 newspaper published in the county where any part of the affected waters is located; and

3.26 (2) mailed or electronically transmitted by the commissioner to the county auditor, the  
3.27 mayor of a municipality, the watershed district, and the soil and water conservation district  
3.28 affected by the application.

3.29 Sec. 5. Minnesota Statutes 2018, section 103G.311, subdivision 5, is amended to read:

3.30 Subd. 5. **Demand for hearing.** (a) If a hearing is waived and an order is made issuing  
3.31 or denying the permit, the applicant, the managers of the watershed district, the board of

4.1 supervisors of the soil and water conservation district, or the governing body of the  
 4.2 municipality may file a demand for hearing on the application. The demand for a hearing  
 4.3 must be filed within 30 days after mailed or electronically transmitted notice of the order  
 4.4 with the bond required by subdivision 6.

4.5 (b) The commissioner must give notice as provided in subdivision 2, hold a hearing on  
 4.6 the application, and make a determination on issuing or denying the permit as though the  
 4.7 previous order had not been made.

4.8 (c) The order issuing or denying the permit becomes final at the end of 30 days after  
 4.9 mailed or electronically transmitted notice of the order to the applicant, the managers of the  
 4.10 watershed district, the board of supervisors of the soil and water conservation district, or  
 4.11 the governing body of the municipality, and an appeal of the order may not be taken if:

4.12 (1) the commissioner waives a hearing and a demand for a hearing is not made; or

4.13 (2) a hearing is demanded but a bond is not filed as required by subdivision 6.

4.14 Sec. 6. Minnesota Statutes 2018, section 103G.315, subdivision 8, is amended to read:

4.15 Subd. 8. **Notice of permit order.** Notice of orders made after hearing must be given by  
 4.16 publication of the order once a week for two successive weeks in a legal newspaper in the  
 4.17 county where the hearing was held and by mailing or electronically transmitting copies of  
 4.18 the order to parties who entered an appearance at the hearing.

4.19 Sec. 7. Minnesota Statutes 2018, section 103G.408, is amended to read:

4.20 **103G.408 TEMPORARY DRAWDOWN OF PUBLIC WATERS.**

4.21 (a) The commissioner, upon consideration of recommendations and objections as provided  
 4.22 in clause (2), item (iii), and paragraph (c), may issue a public-waters-work permit for the  
 4.23 temporary drawdown of a public water when:

4.24 (1) the public water is a shallow lake to be managed for fish, wildlife, or ecological  
 4.25 purposes by the commissioner and the commissioner has conducted a public hearing  
 4.26 presenting a comprehensive management plan outlining how and when temporary drawdowns  
 4.27 under this section will be conducted; or

4.28 (2) the permit applicant is a public entity and:

4.29 (i) the commissioner deems the project to be beneficial and makes findings of fact that  
 4.30 the drawdown is in the public interest;

5.1 (ii) the permit applicant has obtained permission from at least 75 percent of the riparian  
5.2 landowners; and

5.3 (iii) the permit applicant has conducted a public hearing according to paragraph (d).

5.4 (b) In addition to the requirements in section 103G.301, subdivision 6, the permit  
5.5 applicant shall serve a copy of the application on each county, municipality, and watershed  
5.6 management organization, if one exists, within which any portion of the public water is  
5.7 located and on the lake improvement district, if one exists.

5.8 (c) A county, municipality, watershed district, watershed management organization, or  
5.9 lake improvement district required to be served under paragraph (b) or section 103G.301,  
5.10 subdivision 6, may file a written recommendation for the issuance of a permit or an objection  
5.11 to the issuance of a permit with the commissioner within 30 days after receiving a copy of  
5.12 the application.

5.13 (d) The hearing notice for a public hearing under paragraph (a), clause (2), item (iii),  
5.14 must:

5.15 (1) include the date, place, and time for the hearing;

5.16 (2) include the waters affected and a description of the proposed project;

5.17 (3) be mailed or electronically transmitted to the director, the county auditor, the clerk  
5.18 or mayor of a municipality, the lake improvement district if one exists, the watershed district  
5.19 or water management organization, the soil and water conservation district, and all riparian  
5.20 owners of record affected by the application; and

5.21 (4) be published in a newspaper of general circulation in the affected area.

5.22 (e) Periodic temporary drawdowns conducted under paragraph (a) ~~shall~~ are not be  
5.23 considered takings from riparian landowners.

5.24 (f) This section does not apply to public waters that have been designated for wildlife  
5.25 management under section 97A.101.

5.26 Sec. 8. Minnesota Statutes 2018, section 103G.615, subdivision 3a, is amended to read:

5.27 Subd. 3a. **Invasive aquatic plant management permit.** (a) "Invasive aquatic plant  
5.28 management permit" means an aquatic plant management permit as defined in rules of the  
5.29 Department of Natural Resources that authorizes the selective control of invasive aquatic  
5.30 plants to cause a significant reduction in the abundance of the invasive aquatic plant.

6.1 (b) The commissioner may waive the dated signature of approval requirement in rules  
6.2 of the Department of Natural Resources for invasive aquatic plant management permits if  
6.3 obtaining signatures would create an undue burden on the permittee or if the commissioner  
6.4 determines that aquatic plant control is necessary to protect natural resources.

6.5 (c) If the signature requirement is waived under paragraph (b) because obtaining  
6.6 signatures would create an undue burden on the permittee, the commissioner shall require  
6.7 an alternate form of landowner notification, including news releases or public notices in a  
6.8 local newspaper, a public meeting, or a mailing or electronic transmission to the most recent  
6.9 permanent physical or electronic mailing address of affected landowners. The notification  
6.10 must be given annually and must include: the proposed date of treatment, the target species,  
6.11 the method of control or product being used, and instructions on how the landowner may  
6.12 request that control not occur adjacent to the landowner's property.

6.13 (d) The commissioner may allow dated signatures of approval obtained for an invasive  
6.14 aquatic plant management permit to satisfy rules of the Department of Natural Resources  
6.15 to remain valid for three years if property ownership remains unchanged.