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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. **2634**

03/08/2016 Authored by Green; Whelan; Anderson, M., and Draskowski

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

1.1 A bill for an act
1.2 relating to natural resources; modifying ditch buffer provisions; amending
1.3 Minnesota Statutes 2015 Supplement, section 103F.48, subdivisions 3, 7, 11, by
1.4 adding a subdivision.

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

1.6 Section 1. Minnesota Statutes 2015 Supplement, section 103F.48, subdivision 3,
1.7 is amended to read:

1.8 Subd. 3. **Water resources riparian protection requirements on public waters**
1.9 ~~and public drainage systems.~~ (a) Except as provided in paragraph (b), landowners
1.10 owning property adjacent to a ~~water body~~ public waters identified and mapped on a buffer
1.11 protection map must maintain a buffer to protect the state's water resources ~~as follows:~~

1.12 ~~(i)~~ (1) For all public waters, a landowner must maintain the more restrictive of:

1.13 ~~(i) (1)~~ (1) a 50-foot average width, 30-foot minimum width, continuous buffer of
1.14 perennially rooted vegetation; or

1.15 ~~(ii) (2)~~ (2) the state shoreland standards and criteria adopted by the commissioner under
1.16 section 103F.211; ~~and~~

1.17 ~~(2) for public drainage systems established under chapter 103E, a 16.5-foot~~
1.18 ~~minimum width continuous buffer of perennially rooted vegetation on ditches within the~~
1.19 ~~benefited area of public drainage systems.~~

1.20 (b) A landowner owning property adjacent to a water body identified in a buffer
1.21 protection map and whose property is used for cultivation farming may meet the
1.22 requirements under paragraph (a) by adopting an alternative riparian water quality
1.23 practice, or combination of structural, vegetative, and management practices, based on the
1.24 Natural Resources Conservation Service Field Office Technical Guide or other practices

2.1 approved by the board, that provide water quality protection comparable to the buffer
2.2 protection for the water body that the property abuts.

2.3 (c) The width of a buffer must be measured from the top or crown of the bank. Where
2.4 there is no defined bank, measurement must be from the edge of the normal water level.

2.5 (d) Upon request by a landowner or authorized agent or operator of a landowner,
2.6 a technical professional employee or contractor of the soil and water conservation
2.7 district or its delegate may issue a validation of compliance with the requirements of
2.8 this subdivision. The soil and water conservation district validation may be appealed to
2.9 the board as described in subdivision 9.

2.10 (e) Buffers or alternative water quality practices required under paragraph (a) or
2.11 (b) must be in place on or before:

2.12 ~~(1) November 1, 2017, for public waters; and~~

2.13 ~~(2) November 1, 2018, for public drainage systems.~~

2.14 Sec. 2. Minnesota Statutes 2015 Supplement, section 103F.48, is amended by adding a
2.15 subdivision to read:

2.16 Subd. 3a. **Voluntary riparian protection on public drainage systems.** (a) A
2.17 landowner owning property adjacent to a public drainage system established under
2.18 chapter 103E and identified and mapped on a buffer protection map may enter an
2.19 easement agreement with the board to maintain a 16.5-foot minimum width continuous
2.20 buffer of perennially rooted vegetation on ditches within the benefited area of the public
2.21 drainage system. Subdivision 3, paragraph (b), applies to easement agreements under
2.22 this subdivision.

2.23 (b) The board shall award compensation in an amount equal to 50 percent of the
2.24 value of the buffer, calculated by multiplying the acreage of the buffer by the greater of:

2.25 (1) the average equalized estimated market value of agricultural property in the
2.26 township as established by the commissioner of revenue at the time compensation is
2.27 made; or

2.28 (2) the assessed value per acre of the parcel containing the buffer, based on the
2.29 assessed value of the parcel as stated on the most recent tax statement.

2.30 (c) Subdivisions 6, 7, and 9 apply to easement agreements created under this
2.31 subdivision.

2.32 Sec. 3. Minnesota Statutes 2015 Supplement, section 103F.48, subdivision 7, is
2.33 amended to read:

3.1 Subd. 7. **Corrective actions.** (a) If the soil and water conservation district
3.2 determines a landowner is not in compliance with this section, the district must notify the
3.3 county ~~or watershed district~~ with jurisdiction over the noncompliant site. The county ~~or~~
3.4 ~~watershed district~~ must provide the landowner with a list of corrective actions needed to
3.5 come into compliance and a practical timeline to meet the requirements in this section.
3.6 The county ~~or watershed district~~ with jurisdiction must provide a copy of the corrective
3.7 action notice to the board.

3.8 (b) If the landowner does not comply with the list of actions and timeline provided,
3.9 the county ~~or watershed district~~ may enforce this section under the authority granted in
3.10 section 103B.101, subdivision 12a. Before exercising this authority, a county ~~or watershed~~
3.11 ~~district~~ must adopt a plan containing procedures for the issuance of administrative penalty
3.12 orders and may issue orders beginning November 1, 2017. If a county ~~or watershed~~
3.13 ~~district~~ with jurisdiction over the noncompliant site has not adopted a plan under this
3.14 paragraph, the board may enforce this section under the authority granted in section
3.15 103B.101, subdivision 12a.

3.16 (c) If the county, ~~watershed district~~, or board determines that sufficient steps have
3.17 been taken to fully resolve noncompliance, all or part of the penalty may be forgiven.

3.18 (d) An order issued under paragraph (b) may be appealed to the board as provided
3.19 under subdivision 9.

3.20 (e) A corrective action is not required for conditions resulting from a flood or other
3.21 act of nature.

3.22 (f) A landowner agent or operator of a landowner may not remove or willfully degrade
3.23 a riparian buffer or water quality practice, wholly or partially, unless the agent or operator
3.24 has obtained a signed statement from the property owner stating that the permission for the
3.25 work has been granted by the unit of government authorized to approve the work in this
3.26 section or that a buffer or water quality practice is not required as validated by the soil and
3.27 water conservation district. Removal or willful degradation of a riparian buffer or water
3.28 quality practice, wholly or partially, by an agent or operator is a separate and independent
3.29 offense and may be subject to the corrective actions and penalties in this subdivision.

3.30 Sec. 4. Minnesota Statutes 2015 Supplement, section 103F.48, subdivision 11, is
3.31 amended to read:

3.32 Subd. 11. **State lands.** This section, except subdivision 3a, applies to the state
3.33 and its departments and agencies. On state lands, state departments and agencies must
3.34 maintain a 16.5-foot minimum width continuous buffer of perennially rooted vegetation

- 4.1 on ditches within the benefited area of a public drainage system established under chapter
- 4.2 103E and identified and mapped on a buffer protection map.