

CHAPTER 103B

WATER PLANNING AND PROJECT
IMPLEMENTATION

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103B.231 WATERSHED PLANS.

[For text of subds 1 to 3, see M.S.2002]

Subd. 3a. **Priority schedule.** (a) The Board of Water and Soil Resources in consultation with the state review agencies and the Metropolitan Council may develop a priority schedule for the revision of plans required under this chapter.

(b) The prioritization should be based on but not be limited to status of current plan, scheduled revision dates, anticipated growth and development, existing and potential problems, and regional water quality goals and priorities.

(c) The schedule will be used by the Board of Water and Soil Resources in consultation with the state review agencies and the Metropolitan Council to direct watershed management organizations of when they will be required to revise their plans.

(d) In the event that a plan expires prior to notification from the Board of Water and Soil Resources under this section, the existing plan, authorities, and official controls of a watershed management organization shall remain in full force and effect until a revision is approved.

(e) Watershed management organizations submitting plans and draft plan amendments for review prior to the board's priority review schedule, may proceed to adopt and implement the plan revisions without formal board approval if the board fails to adjust its priority review schedule for plan review, and commence its statutory review process within 45 days of submittal of the plan revision or amendment.

[For text of subds 4 to 14, see M.S.2002]

History: 2003 c 128 art 1 s 78

103B.305 DEFINITIONS.

[For text of subds 1 and 2, see M.S.2002]

Subd. 3. **Comprehensive local water management plan.** "Comprehensive local water management plan," "comprehensive water plan," "local water plan," and "local water management plan" mean the plan adopted by a county under sections 103B.311 and 103B.315.

[For text of subds 4 to 7, see M.S.2002]

Subd. 7a. **Plan authority.** "Plan authority" means those local government units coordinating planning under sections 103B.301 to 103B.335.

Subd. 7b. **Priority concerns.** "Priority concerns" means issues, resources, subwatersheds, or demographic areas that are identified as a priority by the plan authority.

Subd. 7c. **Priority concerns scoping document.** "Priority concerns scoping document" means the list of the chosen priority concerns and a detailed account of how those concerns were identified and chosen.

[For text of subd 8, see M.S.2002]

Subd. 8a. **State review agencies.** "State review agencies" means the Board of Water and Soil Resources, the Department of Agriculture, the Department of Health, the Department of Natural Resources, the Pollution Control Agency, and other agencies granted state review status by a resolution of the board.

[For text of subds 9 and 10, see M.S.2002]

History: 2003 c 128 art 1 s 79-83

103B.311 COUNTY WATER PLANNING AND MANAGEMENT.

Subdivision 1. **County duties.** Each county is encouraged to develop and implement a local water management plan. Each county that develops and implements a plan has the duty and authority to:

(1) prepare and adopt a local water management plan that meets the requirements of this section and section 103B.315;

(2) review water and related land resources plans and official controls submitted by local units of government to assure consistency with the local water management plan; and

(3) exercise any and all powers necessary to assure implementation of local water management plans.

Subd. 2. **Delegation.** The county is responsible for preparing, adopting, and assuring implementation of the local water management plan, but may delegate all or part of the preparation of the plan to a local unit of government, a regional development commission, or a resource conservation and development committee. The county may not delegate authority for the exercise of eminent domain, taxation, or assessment to a local unit of government that does not possess those powers.

Subd. 3. **Coordination.** (a) To assure the coordination of efforts of all local units of government within a county during the preparation and implementation of a local water management plan, each county intending to adopt a plan shall conduct meetings with other local units of government and may execute agreements with other local units of government establishing the responsibilities of each unit during the preparation and implementation of the local water management plan.

(b) Each county intending to adopt a plan shall coordinate its planning program with contiguous counties. Before meeting with local units of government, a county board shall notify the county boards of each county contiguous to it that the county is about to begin preparing its local water management plan and is encouraged to request and hold a joint meeting with the contiguous county boards to consider the planning process.

Subd. 4. **Water plan requirements.** (a) A local water management plan must:

(1) cover the entire area within a county;

(2) address water problems in the context of watershed units and groundwater systems;

(3) be based upon principles of sound hydrologic management of water, effective environmental protection, and efficient management;

(4) be consistent with local water management plans prepared by counties and watershed management organizations wholly or partially within a single watershed unit or groundwater system; and

(5) the local water management plan must specify the period covered by the local water management plan and must extend at least five years but no more than ten years from the date the board approves the local water management plan. Local water management plans that contain revision dates inconsistent with this section must

comply with that date, provided it is not more than ten years beyond the date of board approval. A two-year extension of the revision date of a local water management plan may be granted by the board, provided no projects are ordered or commenced during the period of the extension.

(b) Existing water and related land resources plans, including plans related to agricultural land preservation programs developed pursuant to chapter 40A, must be fully utilized in preparing the local water management plan. Duplication of the existing plans is not required.

Subd. 5. [Repealed, 2003 c 128 art 1 s 176]

Subd. 6. [Repealed, 2003 c 128 art 1 s 176]

Subd. 7. [Repealed, 2003 c 128 art 1 s 176]

History: 2003 c 128 art 1 s 84-87

103B.312 IDENTIFYING PRIORITY CONCERNS.

Each priority concerns scoping document must contain:

(1) the list of proposed priority concerns the plan will address; and

(2) a description of how and why the priority concerns were chosen, including:

(i) a list of all public and internal forums held to gather input regarding priority concerns, including the dates they were held, a list of participants and affiliated organizations, a summary of the proceedings, and supporting data;

(ii) the process used to locally coordinate and resolve differences between the plan's priority concerns and other state, local, and regional concerns; and

(iii) a list of issues identified by the stakeholders but not selected as priority concerns, why they were not included in the list of priority concerns, and a brief description of how the concerns may be addressed or delegated to other partnering entities.

History: 2003 c 128 art 1 s 88

103B.313 PLAN DEVELOPMENT.

Subdivision 1. Notice of plan revision. The local water management plan authority shall send a notice to local government units partially or wholly within the planning jurisdiction, adjacent counties, and state review agencies of their intent to revise the local water management plan. The notice of a plan revision must include an invitation for all recipients to submit priority concerns they wish to see the plan address.

Subd. 2. Submitting priority concerns to planning authority. Local governments and state review agencies must submit the priority concerns they want the plan to address to the plan authority within 45 days of receiving the notice defined in subdivision 1 or within an otherwise agreed-upon time frame.

Subd. 3. Public information meeting. Before submitting the priority concerns scoping document to the board, the plan authority shall publish a legal notice for and conduct a public information meeting.

Subd. 4. Submittal of priority concerns scoping document to board. The plan authority shall send the scoping document to all state review agencies for review and comment. State review agencies shall provide comments on the plan outline to the board within 30 days of receipt.

Subd. 5. Board review of priority concerns scoping document. The board shall review the scoping document and the comments submitted in accordance with this subdivision. The board shall provide comments to the local plan authority within 60 days of receiving the scoping document, or after the next regularly scheduled board meeting, whichever is later. No local water management plan may be approved pursuant to section 103B.315 without addressing items communicated in the board comments to the plan authority. The plan authority may request that resolution of unresolved issues be addressed pursuant to board policy defined in section 103B.345.

Subd. 6. Requests for existing agency information relevant to priority concerns scoping document. The state review agencies shall, upon request from the local government, provide existing plans, reports, and data analysis related to priority concerns to the plan author within 60 days from the date of the request or within an otherwise agreed upon time frame.

History: 2003 c 128 art 1 s 89

103B.314 CONTENTS OF PLAN.

Subdivision 1. Executive summary. Each plan must have an executive summary, including:

- (1) the purpose of the local water management plan;
- (2) a description of the priority concerns to be addressed by the plan;
- (3) a summary of goals and actions to be taken along with the projected total cost of the implementation program;
- (4) a summary of the consistency of the plan with other pertinent local, state, and regional plans and controls, and where inconsistencies are noted; and
- (5) a summary of recommended amendments to other plans and official controls to achieve consistency.

Subd. 2. Assessment of priority concerns. For each priority concern defined pursuant to section 103B.312, clause (1), the plan shall analyze relevant data, plans, and policies provided by agencies consistent with section 103B.313, subdivision 6, and describe the magnitude of the concern, including how the concern is impacting or changing the local land and water resources.

Subd. 3. Goals and objectives addressing priority concerns. Each plan must contain specific measurable goals and objectives relating to the priority concerns and other state, regional, or local concerns. The goals and objectives must coordinate and attempt to resolve conflict with city, county, regional, or state goals and policies.

Subd. 4. Implementation program for priority concerns. (a) For the measurable goals identified in subdivision 3, each plan must include an implementation program that includes the items described in paragraphs (b) to (e).

(b) An implementation program may include actions involving, but not limited to, data collection programs, educational programs, capital improvement projects, project feasibility studies, enforcement strategies, amendments to existing official controls, and adoption of new official controls. If the local government finds that no actions are necessary to address the goals and objectives identified in subdivision 3 it must explain why actions are not needed. Staff and financial resources available or needed to carry out the local water management plan must be stated.

(c) The implementation schedule must state the time in which each of the actions contained in the implementation program will be taken.

(d) If a local government unit has made any agreement for the implementation of the plan or portions of a plan by another local unit of government, that local unit must be specified, the responsibility indicated, and a description included indicating how and when the implementation will happen.

(e) If capital improvement projects are proposed to implement the local water management plan, the projects must be described in the plan. The description of a proposed capital improvement project must include the following information:

- (1) the physical components of the project, including their approximate size, configuration, and location;
- (2) the purposes of the project and relationship to the objectives in the plan;
- (3) the proposed schedule for project construction;
- (4) the expected federal, state, and local costs;
- (5) the types of financing proposed, such as special assessments, ad valorem taxes, and grants; and
- (6) the sources of local financing proposed.

Subd. 5. **Other water management responsibilities and activities coordinated by plan.** The plan must also describe the actions that will be taken to carry out the responsibilities or activities, identify the lead and supporting organizations or government units that will be involved in carrying out the action, and estimate the cost of each action.

Subd. 6. **Amendments.** The plan authority may initiate an amendment to the local water management plan by submitting a petition to the board and sending copies of the proposed amendment and the date of the public hearing to the following entities for review: local government units defined in section 103B.305, subdivision 5, that are within the plan's jurisdiction; and the state review agencies.

After the public hearing the board shall review the amendment pursuant to section 103B.315, subdivision 5, paragraphs (b) and (c). The amendment becomes part of the local water management plan after being approved by the board. The board must send the order and the approved amendment to the entities that received the proposed amendment and notice of the public hearing.

History: 2003 c 128 art 1 s 90

103B.315 COMPREHENSIVE WATER PLAN REVIEW AND ADOPTION.

Subdivision 1. [Repealed, 2003 c 128 art 1 s 176]

Subd. 2. [Repealed, 2003 c 128 art 1 s 176]

Subd. 3. [Repealed, 2003 c 128 art 1 s 176]

Subd. 4. **Public hearing.** The county board shall conduct a public hearing on the local water management plan pursuant to section 375.51.

Subd. 5. **State review.** (a) After conducting the public hearing but before final adoption, the county board must submit its local water management plan, all written comments received on the plan, a record of the public hearing under subdivision 4, and a summary of changes incorporated as a result of the review process to the board for review. The board shall complete the review within 90 days after receiving a local water management plan and supporting documents. The board shall consult with the Departments of Agriculture, Health, and Natural Resources; the Pollution Control Agency; the Environmental Quality Board; and other appropriate state agencies during the review.

(b) The board may disapprove a local water management plan if the board determines the plan is not consistent with state law. If a plan is disapproved, the board shall provide a written statement of its reasons for disapproval. A disapproved local water management plan must be revised by the county board and resubmitted for approval by the board within 120 days after receiving notice of disapproval of the local water management plan, unless the board extends the period for good cause.

(c) If the local government unit disagrees with the board's decision to disapprove the plan, it may, within 60 days, initiate mediation through the board's informal dispute resolution process as established pursuant to section 103B.345, subdivision 1. A local government unit may appeal disapproval to the Court of Appeals. A decision of the board on appeal is subject to judicial review under sections 14.63 to 14.69.

Subd. 6. **Adoption and implementation.** A county board shall adopt and begin implementation of its local water management plan within 120 days after receiving notice of approval of the plan from the board.

Subd. 7. [Repealed, 2003 c 128 art 1 s 176]

History: 2003 c 128 art 1 s 91-93

103B.321 DUTIES OF THE BOARD.

Subdivision 1. **General.** The board shall:

(1) develop guidelines for the contents of local water management plans that provide for a flexible approach to meeting the different water and related land resources needs of counties and watersheds across the state;

(2) coordinate assistance of state agencies to counties and other local units of government involved in preparation of local water management plans, including identification of pertinent data and studies available from the state and federal government;

(3) conduct an active program of information and education concerning the requirements and purposes of sections 103B.301 to 103B.355 in conjunction with the Association of Minnesota Counties;

(4) determine contested cases under section 103B.345;

(5) establish a process for review of local water management plans that assures the plans are consistent with state law; and

(6) make grants to counties for local water management planning, implementation of priority actions identified in approved plans, and sealing of abandoned wells.

Subd. 2. **Rulemaking.** The board may adopt rules to implement sections 103B.301 to 103B.355.

Subd. 3. [Repealed, 2003 c 128 art 1 s 176]

History: 2003 c 2 art 1 s 13; 2003 c 128 art 1 s 94,95

103B.325 CONSISTENCY OF LOCAL PLANS AND CONTROLS WITH THE LOCAL WATER MANAGEMENT PLAN.

Subdivision 1. **Requirement.** Local units of government shall amend existing water and related land resources plans and official controls as necessary to conform them to the applicable, approved local water management plan following the procedures in this section.

Subd. 2. **Procedure.** Within 90 days after local units of government are notified by the county board of the adoption of a local water management plan or of adoption of an amendment to a comprehensive water plan, the local units of government exercising water and related land resources planning and regulatory responsibility for areas within the county must submit existing water and related land resources plans and official controls to the county board for review. The county board shall identify any inconsistency between the plans and controls and the local water management plan and shall recommend the amendments necessary to bring local plans and official controls into conformance with the local water management plan.

[For text of subs 3 to 5, see M.S.2002]

History: 2003 c 128 art 1 s 96,97

103B.331 AUTHORITY UNDER APPROVED LOCAL WATER MANAGEMENT PLANS.

Subdivision 1. **Authority.** When an approved local water management plan is adopted, the county has the authority specified in this section.

Subd. 2. **Regulation of water and land resources.** The county may regulate the use and development of water and related land resources within incorporated areas when one or more of the following conditions exists:

(1) the municipality does not have a local water and related land resources plan or official controls consistent with the local water management plan;

(2) a municipal action granting a variance or conditional use would result in an action inconsistent with the local water management plan;

(3) the municipality has authorized the county to require permits for the use and development of water and related land resources; or

(4) a state agency has delegated the administration of a state permit program to the county.

Subd. 3. **Acquisition of property; assessment of costs.** A county may:

- (1) acquire in the name of the county, by condemnation under chapter 117, real and personal property found by the county board to be necessary for the implementation of an approved local water management plan;
- (2) assess the costs of projects necessary to implement the local water management plan undertaken under sections 103B.301 to 103B.355 upon the property benefited within the county in the manner provided for municipalities by chapter 429;
- (3) charge users for services provided by the county necessary to implement the local water management plan; and
- (4) establish one or more special taxing districts within the county and issue bonds for the purpose of financing capital improvements under sections 103B.301 to 103B.355.

[For text of subd 4, see M.S.2002]

History: 2003 c 128 art 1 s 98-100

103B.3363 DEFINITIONS.

[For text of subds 1 and 2, see M.S.2002]

Subd. 3. **Comprehensive local water management plan.** "Comprehensive local water management plan," "comprehensive water plan," "local water plan," and "local water management plan" mean a county water plan authorized under section 103B.311, a watershed management plan required under section 103B.231, a watershed management plan required under section 103D.401 or 103D.405, or a county groundwater plan authorized under section 103B.255.

[For text of subds 4 and 5, see M.S.2002]

History: 2003 c 128 art 1 s 101

103B.3369 LOCAL WATER RESOURCES PROTECTION AND MANAGEMENT PROGRAM.

[For text of subd 1, see M.S.2002]

Subd. 2. **Establishment.** A local water resources protection and management program is established. The board may provide financial assistance to local units of government for activities that protect or manage water and related land quality. The activities include planning, zoning, official controls, and other activities to implement local water management plans.

Subd. 3. *[Repealed, 2003 c 128 art 1 s 176]*

Subd. 4. **Contracts.** A local unit of government may contract to implement programs. An explanation of the program responsibilities proposed to be contracted must accompany grant requests. A local unit of government that contracts is responsible for ensuring that state funds are properly expended and for providing an annual report to the board describing expenditures of funds and program accomplishments.

Subd. 5. **Financial assistance.** A base grant may be awarded to a county that levies a water implementation tax at a rate, which shall be determined by the board. The minimum amount of the water implementation tax shall be a tax rate times the adjusted net tax capacity of the county for the preceding year. The rate shall be the rate, rounded to the nearest .001 of a percent, that, when applied to the adjusted net tax capacity for all counties, raises the amount of \$1,500,000. The base grant will be in an amount equal to \$37,500 less the amount raised by that levy. If the amount necessary to implement the local water plan for the county is less than \$37,500, the amount of the base grant shall be the amount that, when added to the levy amount, equals the amount required to implement the plan. For counties where the tax rate generates an amount equal to or greater than \$18,750, the base grant shall be in an amount equal to \$18,750.

Subd. 6. **Limitations.** (a) Grants provided to implement programs under this section must be reviewed by the state agency having statutory program authority to assure compliance with minimum state standards. At the request of the state agency commissioner, the board shall revoke the portion of a grant used to support a program not in compliance.

(b) Grants provided to develop or revise local water management plans may not be awarded for a time longer than two years.

(c) A local unit of government may not request or be awarded grants for project implementation unless a local management water plan has been adopted.

History: 2003 c 128 art 1 s 102-105

103B.355 APPLICATION.

Sections 103B.301 to 103B.355 do not apply in areas subject to the requirements of sections 103B.201 to 103B.255 under section 103B.231, subdivision 1, and in areas covered by an agreement under section 103B.231, subdivision 2, except as otherwise provided in section 103B.311, subdivision 4, clause (4).

History: 2003 c 128 art 1 s 106

103B.521 INITIATION BY PETITION AND ESTABLISHMENT BY COUNTY BOARD.

Subdivision 1. **Petition.** (a) A lake improvement district may be initiated by a petition to the county board. The petition must state:

- (1) the name of the proposed lake improvement district;
- (2) the necessity of the proposed district to promote public health or public welfare;
- (3) the benefits to property from the establishment of the lake improvement district;
- (4) the boundaries of the proposed district which shall be encouraged to be as consistent as possible with natural hydrologic boundaries;
- (5) a map of the proposed district;
- (6) the number, from five to nine, of directors proposed for the district; and
- (7) a request for establishing the district as proposed.

(b) A petition must be signed by a majority of the property owners within the proposed lake improvement district described in the petition. Governmental subdivisions, other than the state or federal governments, owning lands within the proposed district are eligible to sign the petition.

(c) The petition must be filed with the county auditor and addressed to the board, requesting the board to establish a lake improvement district to develop and provide a program of water and related land resources management.

(d) The county board shall, at least 30 days before it acts on a petition, send the town board of a town wholly or partially within the boundaries of a proposed district a copy of the petition submitted under this subdivision and encourage the town board to respond to the proposed creation of the district.

[For text of subds 2 and 3, see M.S.2002]

History: 2003 c 91 s 1

103B.581 TERMINATION.

Subdivision 1. **Petition.** Termination of a district may be initiated by petition requesting the termination of the district. The petition must be signed by a majority of the property owners in a district within 30 days after receiving a petition. The county board or joint county authority must set a time and place for a hearing on terminating the district.

[For text of subds 2 and 3, see M.S.2002]

History: 2003 c 91 s 2