

SENATE  
STATE OF MINNESOTA  
NINETY-THIRD SESSION

S.F. No. 3559

| (SENATE AUTHORS: HAWJ) |                 |  |
|------------------------|-----------------|--|
| DATE                   | D-PG            | OFFICIAL STATUS  |
| 02/12/2024             | 11558           | Introduction and first reading<br>Referred to Environment, Climate, and Legacy |
| 02/26/2024             | 11731a<br>11795 | Comm report: To pass as amended<br>Second reading<br>See SF2904                |

1.1

A bill for an act

1.2

relating to natural resources; modifying provisions for watersheds, soil and water

1.3

conservation districts, drainage repair, and wetland management; modifying wetland

1.4

banking program and conservation easement programs; clarifying jurisdiction for

1.5

riparian protection and water quality; eliminating grants to control beaver damage;

1.6

modifying authority and duties of Board of Water and Soil Resources; requiring

1.7

rulemaking; amending Minnesota Statutes 2022, sections 103B.101, subdivision

1.8

13; 103C.005; 103C.221; 103C.331, subdivisions 3, 5, 6, 7, 8, 9, 10, 11, 12, 13,

1.9

14, 15, 16, by adding subdivisions; 103D.011, subdivision 10; 103D.201,

1.10

subdivision 2; 103D.205, subdivision 4; 103D.251, subdivisions 5, 6; 103D.255;

1.11

103D.261, subdivisions 1, 2; 103D.271, subdivision 7; 103D.301, subdivisions 1,

1.12

3; 103D.305, subdivisions 2, 5; 103D.311, subdivision 4; 103D.315, subdivisions

1.13

9, 10; 103D.321, subdivision 1; 103D.331, subdivision 2; 103D.335, subdivision

1.14

11; 103D.341, subdivision 1; 103D.345, subdivision 4; 103D.355, subdivision 1;

1.15

103D.401; 103D.405, subdivision 1; 103D.535, subdivision 3; 103D.701;

1.16

103D.705, subdivision 1, by adding a subdivision; 103D.711; 103D.715,

1.17

subdivision 1; 103D.729, subdivisions 1, 2; 103D.731; 103D.745, subdivision 3;

1.18

103D.805; 103D.811, subdivision 3; 103D.901, subdivision 2; 103E.729,

1.19

subdivision 9; 103F.48, subdivision 1; 103F.511, by adding subdivisions; 103F.515;

1.20

103F.535, subdivision 5; 103G.005, subdivisions 14d, 17b; 103G.222, subdivision

1.21

1; 103G.2241, subdivisions 1, 2, 6, 9; 103G.2242, subdivisions 2, 2a, 3; Minnesota

1.22

Statutes 2023 Supplement, section 103G.005, subdivision 19; proposing coding

1.23

for new law in Minnesota Statutes, chapters 103D; 103F; repealing Minnesota

1.24

Statutes 2022, sections 103A.206; 103D.315, subdivision 4; 103D.405, subdivisions

1.25

2, 3, 4, 5, 6; 103D.411; 103D.601; 103D.605, subdivisions 1, 2, 3, 4; 103D.611;

1.26

103F.511, subdivision 8b; 103F.950; Minnesota Statutes 2023 Supplement, section

1.27

103D.605, subdivision 5; Minnesota Rules, parts 8400.3000; 8400.3030; 8400.3110;

1.28

8400.3210; 8400.3260; 8400.3300; 8400.3400; 8400.3460; 8400.3600; 8400.3610;

1.29

8400.3630; 8400.3700; 8400.3730; 8400.3800; 8400.3830; 8400.3930.

1.30

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

1.31

Section 1. Minnesota Statutes 2022, section 103B.101, subdivision 13, is amended to read:

1.32

Subd. 13. **Drainage stakeholder coordination.** (a) The Board of Water and Soil

1.33

Resources shall work with drainage stakeholders to foster mutual understanding and provide

recommendations for drainage system management and related water management, including recommendations for updating the drainage law in chapter 103E, the Minnesota Public Drainage Manual, and other related provisions. The board may convene informal working groups or work teams to develop information, education, and recommendations.

(b) For the purposes of this subdivision, the Minnesota Public Drainage Manual is a publication that is prepared by and adopted by the board and that includes explanations, procedures, and guidance consistent with and supplementing the provisions of chapter 103E. The manual must include best management practices and be prepared in consultation with drainage stakeholders according to paragraph (a) for use by drainage authorities in carrying out statutory duties.

Sec. 2. Minnesota Statutes 2022, section 103C.005, is amended to read:

**103C.005 SOIL AND WATER CONSERVATION POLICY.**

Maintaining and enhancing the quality of soil and water for the environmental and economic benefits they produce, preventing degradation, and restoring degraded soil and water resources of this state contribute greatly to the health, safety, economic well-being, and general welfare of this state and its citizens. Land occupiers have the responsibility to implement practices that conserve the soil and water resources of the state. Soil and water conservation measures implemented on private lands in this state provide benefits to the general public by reducing erosion, sedimentation, siltation, water pollution, and damages caused by floods. The soil and water conservation policy of the state is to encourage land occupiers to conserve soil, water, and the natural resources they support through the implementation of practices that:

(1) control or prevent erosion, sedimentation, siltation, and related pollution in order to preserve natural resources;

(2) ensure continued soil health, as defined under section 103C.101, subdivision 10a, and soil productivity;

(3) protect water quality;

(4) prevent impairment of dams and reservoirs;

(5) reduce damages caused by floods;

(6) preserve wildlife;

(7) protect the tax base; and

(8) protect public lands and waters.

3.1 Sec. 3. Minnesota Statutes 2022, section 103C.221, is amended to read:

3.2 **103C.221 CHANGING LOCATION OF PRINCIPAL OFFICE.**

3.3 The location of the principal office of the district ~~board~~ may be changed ~~with the approval~~  
3.4 ~~of the state board~~ after the adoption of a resolution by a majority of the district board stating  
3.5 the new location within the district and by filing a certified copy of the resolution with the  
3.6 secretary of state.

3.7 Sec. 4. Minnesota Statutes 2022, section 103C.331, subdivision 3, is amended to read:

3.8 Subd. 3. **Surveys, investigations, and research.** A district may conduct surveys,  
3.9 investigations, and research to identify the problems and preventive practices specified in  
3.10 section ~~103A.206~~ 103C.005. ~~To avoid duplication of research activities, no district shall~~  
3.11 ~~initiate any research program except in cooperation with a state agency or an agency of the~~  
3.12 ~~United States.~~

3.13 Sec. 5. Minnesota Statutes 2022, section 103C.331, subdivision 5, is amended to read:

3.14 Subd. 5. **Demonstration projects.** A district may conduct demonstration projects within  
3.15 the district on lands owned or administered by a state agency, with the cooperation of the  
3.16 administering agency, and on other lands with the consent of the land occupier, to  
3.17 demonstrate practices which implement the state policy specified in section ~~103A.206~~  
3.18 103C.005.

3.19 Sec. 6. Minnesota Statutes 2022, section 103C.331, subdivision 6, is amended to read:

3.20 Subd. 6. **Implementing practices.** A district may implement any necessary practices  
3.21 within the district, including structural measures and works of improvement ~~for any purpose~~  
3.22 ~~specified in section 103A.206, methods of cultivation, the use of vegetation, and changes~~  
3.23 ~~in use of land~~ to achieve the purposes of this chapter and fulfill other statutory responsibilities,  
3.24 on:

3.25 (1) lands acquired by the district;

3.26 (2) lands owned or administered by a state public agency, with the cooperation of the  
3.27 administering agency; and

3.28 (3) other lands, with the consent of the land occupier.

4.1 Sec. 7. Minnesota Statutes 2022, section 103C.331, subdivision 7, is amended to read:

4.2 Subd. 7. **Implementing soil and water conservation policy.** A district may cooperate  
4.3 or enter into agreements with and furnish financial or other aid to a land occupier or  
4.4 appropriate agency, to implement ~~the policy specified in section 103A.206, within the district~~  
4.5 this chapter and fulfill other statutory responsibilities, subject to conditions the district board  
4.6 determines ~~is~~ are necessary.

4.7 Sec. 8. Minnesota Statutes 2022, section 103C.331, subdivision 8, is amended to read:

4.8 Subd. 8. **Acquiring and maintaining property.** A district may acquire any rights or  
4.9 interests in real or personal property by option, purchase, exchange, lease, gift, grant, bequest,  
4.10 devise, or otherwise. It may maintain, operate, administer, and improve any properties  
4.11 acquired. It may receive income from the properties and expend the income to implement  
4.12 this chapter and ~~sections 103F.401 to 103F.455~~ fulfill other statutory responsibilities. It  
4.13 may sell, lease, or otherwise dispose of any of its property or interests.

4.14 Sec. 9. Minnesota Statutes 2022, section 103C.331, subdivision 9, is amended to read:

4.15 Subd. 9. **Using machinery and supplies.** A district may make available, on terms it  
4.16 ~~shall prescribe~~ prescribes, to land occupiers within the district, agricultural and engineering  
4.17 machinery and equipment, fertilizer, seeds, ~~and~~ seedlings, and other material or equipment  
4.18 ~~which will assist~~ that helps land occupiers ~~to implement practices on their land specified in~~  
4.19 ~~section 103C.005~~ to implement this chapter and fulfill other statutory responsibilities.

4.20 Sec. 10. Minnesota Statutes 2022, section 103C.331, subdivision 10, is amended to read:

4.21 Subd. 10. **Constructing improvements.** A district may construct, install, improve,  
4.22 maintain, and operate structures and works necessary or convenient to perform an operation  
4.23 authorized under this chapter and ~~sections 103F.401 to 103F.455~~ other statutory authority.

4.24 Sec. 11. Minnesota Statutes 2022, section 103C.331, subdivision 11, is amended to read:

4.25 Subd. 11. **Comprehensive plan.** (a) A district may develop and revise a comprehensive  
4.26 plan, ~~specifying practices to implement the state policy specified in section 103A.206,~~  
4.27 ~~including~~ fulfill statutory responsibilities. The plan may include:

4.28 (1) the construction, maintenance, and operation of structural measures;

4.29 (2) methods of cultivation;

4.30 (3) the use of vegetation;

- 5.1 (4) cropping programs;
- 5.2 (5) mechanical practices;
- 5.3 (6) changes in use of land;
- 5.4 (7) water quality improvement practices;
- 5.5 (8) other land use, soil erosion reduction, and agricultural practices; ~~and~~
- 5.6 (9) related technical standards and specifications; and
- 5.7 (10) other practices, projects, programs, and systems to fulfill statutory responsibilities.

5.8 ~~(b) The plan shall include a classification of the soil types within the district as determined~~  
5.9 ~~by the Minnesota Cooperative Soil Survey.~~

5.10 ~~(c) The plan must identify the areas within the district where erosion, sedimentation,~~  
5.11 ~~and related water quality problems appear most in need of control methods.~~

5.12 ~~(d) (b) The plan shall~~ must be consistent with the statewide framework water resources  
5.13 plan, the statewide water quality management plan, and the state board's soil and water  
5.14 program plan frameworks as provided in chapter 103B.

5.15 ~~(e) Each district that applies for cost-sharing funds under section 103C.501 shall submit~~  
5.16 ~~to the state board an annual work plan for the high priority erosion, sedimentation, and water~~  
5.17 ~~quality problems in the district. The work plan shall be prepared as required by the rules of~~  
5.18 ~~the state board. In preparing the annual work plan, the district shall actively identify and~~  
5.19 ~~seek out land occupiers with high priority erosion problems who have not participated in~~  
5.20 ~~cost-sharing contracts and encourage their participation in programs to control their erosion~~  
5.21 ~~problems.~~

5.22 (c) At least 60 days before submitting the plan to the state board, the district must hold  
5.23 a public hearing on the plan and provide notice of the hearing via the district's website. The  
5.24 district must give notice of the hearing to the county and all affected cities and towns. To  
5.25 allow for public input, the district must also administer a review and comment period of at  
5.26 least 30 days before submitting the plan.

5.27 (d) The district must submit the plan to the state board for review and approval before  
5.28 adopting the plan at a district meeting.

5.29 Sec. 12. Minnesota Statutes 2022, section 103C.331, subdivision 12, is amended to read:

5.30 Subd. 12. **Assuming other conservation projects.** (a) A district may take over by  
5.31 purchase, lease, or otherwise, and may improve, maintain, operate, and administer a soil or

water conservation, erosion-control, erosion-prevention, water quality improvement, watershed protection, flood prevention, or flood control project in its boundaries undertaken by the United States or by a state public agency.

(b) A district may accept donations, gifts, grants, or contributions in money, services, materials, or otherwise from the United States, a state public agency, or other source to accomplish ~~the authorization in this section~~ statutory responsibilities. A board district may enter into a contract or agreement necessary or appropriate to accomplish the transfer. A board district may use or expend money, services, materials, or other things to accomplish an authorized purpose.

Sec. 13. Minnesota Statutes 2022, section 103C.331, subdivision 13, is amended to read:

Subd. 13. **Authority to sue and contract.** A district may sue and be sued in its name, have perpetual succession unless terminated as provided in section 103C.225, make and execute contracts and other instruments necessary or convenient to the exercise of its powers, and make, amend, or repeal rules and regulations consistent with this chapter and ~~sections 103F.401 to 103F.455~~ other statutory authority.

Sec. 14. Minnesota Statutes 2022, section 103C.331, subdivision 14, is amended to read:

Subd. 14. **Compensation for work or projects.** As a condition for extending benefits for the performance of work, including operations and maintenance, upon lands not owned or administered by a state public agency or the district, the ~~supervisors~~ district may require compensation or contributions in money, services, materials, or otherwise, commensurate with the cost or reasonable value of the operations or work conferring the benefits.

Sec. 15. Minnesota Statutes 2022, section 103C.331, subdivision 15, is amended to read:

Subd. 15. **Agreements for state or federal assistance.** (a) A district may ~~submit an application~~ apply for and enter into an agreement or contract ~~with the secretary of agriculture or other designated authority~~ to obtain or use state or federal funding or assistance under any law providing for state or federal funding or assistance for an authorized purpose of the district.

(b) A district may:

(1) ~~acquire without cost to the federal government~~ any land, easements, or rights-of-way needed in connection with works of improvement installed with federal or state assistance or funding;

(2) assume the proportionate share of the cost of installing works of improvement involving state or federal funding or assistance ~~determined by the secretary or other designated authority to be~~ that is equitable in consideration of anticipated benefits from the improvements;

(3) ~~make arrangements satisfactory to the secretary or other authority~~ arrange to defray costs of operating and maintaining works of improvement in accordance with prescribed regulations;

(4) acquire or provide assurance that land occupiers have acquired the water rights and other rights, pursuant to state law, needed to install, maintain, and operate the works of improvement; and

(5) obtain agreements to carry out recommended soil and water conservation measures and prepare farm plans for owners of not less than 50 percent or other required percentage of the lands situated in a drainage area above a retention reservoir installed with federal assistance, as prescribed by applicable federal law, and may do any other acts necessary to secure and use federal aid.

Sec. 16. Minnesota Statutes 2022, section 103C.331, subdivision 16, is amended to read:

Subd. 16. **Budget.** The district ~~board~~ shall annually present a budget consisting of an itemized statement of district expenses for the ensuing calendar year to the boards of county commissioners of the counties in which the district is located. The county boards may levy an annual tax on all taxable real property in the district for the amount that the boards determine is necessary to meet the requirements of the district. The amount levied shall be collected and distributed to the district as prescribed by chapter 276. The amount may be spent by the district ~~board~~ for a district purpose authorized by law.

Sec. 17. Minnesota Statutes 2022, section 103C.331, is amended by adding a subdivision to read:

Subd. 21. **Water and soil resource management.** A district may initiate, construct, operate, and maintain water and soil resource management practices, projects, programs, and systems within the boundaries of the district and use, supplement, or otherwise coordinate contributions from state, federal, Tribal, or local governments and private entities for similar purposes.

8.1 Sec. 18. Minnesota Statutes 2022, section 103C.331, is amended by adding a subdivision  
8.2 to read:

8.3 Subd. 22. **Loans.** The district may obtain loans when the district determines it is prudent  
8.4 to accomplish its statutory duties.

8.5 Sec. 19. Minnesota Statutes 2022, section 103D.011, subdivision 10, is amended to read:

8.6 Subd. 10. **Engineer.** "Engineer" means ~~the~~ an engineer or other professional designated  
8.7 by the managers ~~to act as engineer~~ and qualified through licensure, certification, or other  
8.8 relevant credentials to address the engineering or other scientific or technical considerations  
8.9 involved in planning and designing a watershed district project.

8.10 Sec. 20. Minnesota Statutes 2022, section 103D.201, subdivision 2, is amended to read:

8.11 Subd. 2. **Specific purposes.** A watershed district may be established for and use its  
8.12 powers to advance any of the following purposes:

8.13 (1) to control or alleviate damage from floodwaters to promote climate resilience;

8.14 (2) to protect, improve stream channels, or restore watercourses and water basins for  
8.15 drainage, navigation, water quality, flood mitigation, and any other public purpose;

8.16 (3) to ~~reclaim~~ manage impacts to, restore, or ~~fill~~ replace wet and overflowed land;

8.17 (4) to provide a water supply for irrigation;

8.18 (5) to regulate and conserve the flow of ~~streams and conserve the streams' water~~  
8.19 watercourses;

8.20 ~~(6) to divert or change all or part of watercourses;~~

8.21 ~~(7)~~ (6) to provide or conserve water supply for domestic, industrial, recreational,  
8.22 agricultural, or other public use;

8.23 ~~(8)~~ (7) to provide for sanitation and public health; and regulate the use of streams, ditches,  
8.24 or watercourses to dispose of waste;

8.25 ~~(9)~~ (8) to repair, improve, relocate, modify, consolidate, and abandon all or part of  
8.26 drainage systems within a watershed district;

8.27 ~~(10)~~ (9) to control or alleviate soil erosion and siltation of watercourses or water basins;

8.28 ~~(11)~~ (10) to regulate improvements by riparian property owners of the beds, banks, and  
8.29 shores of lakes, streams, and wetlands for preservation and beneficial public use;



9.1       ~~(12)~~ (11) to provide for hydroelectric power generation;

9.2       ~~(13)~~ (12) to protect or enhance the water quality in watercourses or water basins; ~~and~~

9.3       ~~(14)~~ (13) to provide for the protection of groundwater and regulate its use to preserve it

9.4       for beneficial purposes; and

9.5       (14) to otherwise manage and protect surface waters and groundwaters for any beneficial

9.6       purpose.

9.7       Sec. 21. Minnesota Statutes 2022, section 103D.205, subdivision 4, is amended to read:

9.8       Subd. 4. **Filing establishment petitions.** The petitioners must file a copy of the

9.9       establishment petition with the auditors of the counties affected by the proposed watershed

9.10      district, and the commissioner, and the director. The original establishment petition, with

9.11      a signed statement of delivery or receipt for each of the establishment petitions submitted

9.12      to the auditors of affected counties, ~~the commissioners, and the directors,~~ director must be

9.13      filed with the board.

9.14      Sec. 22. Minnesota Statutes 2022, section 103D.251, subdivision 5, is amended to read:

9.15      Subd. 5. **Petition signatures.** (a) A petition for a watershed boundary change must be

9.16      signed by:

9.17      (1) at least one-half of the counties within the proposed watershed district if the boundary

9.18      change were adopted;

9.19      (2) counties having at least 50 percent of the area within the proposed watershed district

9.20      if the boundary change were adopted;

9.21      (3) a majority of the cities within the proposed watershed district if the boundary change

9.22      were adopted;

9.23      (4) at least 50 resident owners or 50 percent of resident owners, whichever is less, in

9.24      ~~the proposed watershed district if the~~ the area to be added or removed by the proposed boundary

9.25      change if it were adopted, excluding resident owners within the corporate limits of a city,

9.26      if the city has signed the petition; or

9.27      (5) the managers of a watershed district affected by the proposed boundary change.

9.28      (b) The managers must pass a resolution authorizing the boundary change before the

9.29      managers sign a petition for a boundary change.

Sec. 23. Minnesota Statutes 2022, section 103D.251, subdivision 6, is amended to read:

Subd. 6. **Hearing.** The board must set a time and location for a hearing and give notice of the hearing in the same manner as an establishment hearing. The board must also give notice of the hearing by mail at least ten days before the hearing to the watershed district affected by the proposed boundary change. If a petition for a boundary change involves a common boundary of two or more watershed districts, the board must determine the watershed district where the hearing will be held.

Sec. 24. Minnesota Statutes 2022, section 103D.255, is amended to read:

**103D.255 WITHDRAWING TERRITORY.**

Subdivision 1. **Petition.** (a) Proceedings to withdraw territory from an existing watershed district must be initiated by a petition filed with the board.

(b) A majority of the managers may file a petition for withdrawal. Otherwise, the required signatures on a petition for withdrawal are the same as prescribed for an establishment petition, but the percentages must be calculated only with reference to the territory that is proposed to be withdrawn from the watershed district.

(c) The petition must state that:

(1) the territory described has not received or will not receive any benefits from the operation of the watershed districts;

(2) the watershed district can perform the functions for which it was established without the inclusion of the territory; and

(3) the territory is not, in fact, a part of the watershed.

(d) The petition must request the release of the described territory from the watershed district.

(e) The petition must be served on the board and any affected watershed district, and the board shall proceed as prescribed for an establishment petition. The requirements for notices and public hearings are as prescribed for the establishment petition. The board must also give notice of the hearing by mail at least ten days before the hearing to each watershed district affected by the proposed withdrawal of territory.

Subd. 2. **Board's order of withdrawal.** (a) After the hearing, the board may issue an order releasing the territory, or a part of the territory, as described in the petition, if the board determines that:

11.1 (1) the territory described in the petition has not received and will not receive any benefit  
11.2 from the operation of the watershed district;

11.3 (2) the watershed district can perform the functions for which it was established without  
11.4 the inclusion of the territory; and

11.5 (3) the territory is not, in fact, a part of the watershed.

11.6 (b) Property may not be released that has been determined subject to benefits or damages  
11.7 for a project previously constructed.

11.8 (c) Property released remains liable for the proportionate share of any indebtedness  
11.9 existing at the time of the order. Levies on the property released continue in force until fully  
11.10 paid.

11.11 (d) If the board determines that the order prescribing the distribution of managers should  
11.12 be amended following the withdrawal of any territory, the board may direct redistribution  
11.13 of managers in the order authorizing the withdrawal.

11.14 (e) The board must file a certified copy of the findings and order of withdrawal with the  
11.15 secretary of state, the auditor of each county affected by the watershed district, the  
11.16 commissioner, and the watershed district.

11.17 Sec. 25. Minnesota Statutes 2022, section 103D.261, subdivision 1, is amended to read:

11.18 Subdivision 1. **Petition.** (a) Proceedings to enlarge an existing watershed district must  
11.19 be initiated by a petition filed with the board. A majority of the managers may file a petition.  
11.20 Otherwise, the required signatures on a petition to enlarge are the same as for an  
11.21 establishment petition, but the percentages must be calculated only with reference to the  
11.22 territory that is proposed to be added to the watershed district. The petition must:

11.23 (1) state that the area to be added is contiguous to the existing watershed district;

11.24 (2) state that the area can be feasibly administered by the managers of the existing  
11.25 watershed district;

11.26 (3) state reasons why adding the area to the existing watershed district would be  
11.27 conducive to the public health and welfare;

11.28 (4) include a map of the affected area;

11.29 (5) state the name of the proposed enlarged watershed district, if other than that of the  
11.30 existing watershed district; and

11.31 (6) state a request for the addition of the proposed territory.

12.1 (b) The petition must be served on the board and affected watershed districts, and the  
12.2 board must proceed as prescribed for an establishment petition.

12.3 (c) The requirement of notice and public hearings is as prescribed for the establishment  
12.4 petition. The board must also give notice of the hearing by mail at least ten days before the  
12.5 hearing to each watershed district affected by the proposed enlargement.

12.6 Sec. 26. Minnesota Statutes 2022, section 103D.261, subdivision 2, is amended to read:

12.7 Subd. 2. **Board order.** (a) After the hearing, if the board determines that the enlargement  
12.8 of the watershed district as asked for in the petition would be for the public welfare and  
12.9 public interest and the purpose of this chapter would be served, the board shall, by making  
12.10 findings and an order, enlarge the watershed district and file a certified copy of the findings  
12.11 and order with the secretary of state, the auditor of each county affected by the watershed  
12.12 district, the director, and the watershed district.

12.13 (b) The name of the watershed district may be changed by order of the board if requested  
12.14 in the petition to enlarge the watershed district.

12.15 Sec. 27. Minnesota Statutes 2022, section 103D.271, subdivision 7, is amended to read:

12.16 Subd. 7. **Termination hearing order.** When the board determines a termination petition  
12.17 has been filed that meets the requirements of subdivisions 4 and 5, the board must, by order,  
12.18 ~~set a time by~~ within 35 days after ~~of its determination,~~ set a time and a location within the  
12.19 watershed district for a termination hearing or, if publicly accessible facilities are not  
12.20 available within the watershed district, at the nearest suitable publicly accessible facility.  
12.21 The board must have each manager of the watershed district personally served with a copy  
12.22 of the order.

12.23 Sec. 28. Minnesota Statutes 2022, section 103D.301, subdivision 1, is amended to read:

12.24 Subdivision 1. **More than one affected county.** If more than one county is affected by  
12.25 a watershed district, the board must provide that managers are distributed by residence  
12.26 among the counties affected by the watershed district and in consideration of the counties'  
12.27 portion of the land area and net tax capacity of the watershed.

12.28 Sec. 29. Minnesota Statutes 2022, section 103D.301, subdivision 3, is amended to read:

12.29 Subd. 3. **Redistribution.** (a) After ten years from the establishment of the watershed  
12.30 district, the county board of commissioners of a county affected by the watershed district  
12.31 may petition the board to redistribute the managers. After holding a public hearing on

13.1 redistributing the managers, the board may redistribute the managers among the counties  
13.2 affected by the watershed district if the redistribution is in accordance with the policy and  
13.3 purposes of this chapter.

13.4 (b) A petition for the redistribution of managers may not be filed with the board more  
13.5 often than once in ten years.

13.6 (c) If more than one county is affected by a watershed district, the board must distribute  
13.7 the one-, two-, and three-year terms among counties affected by the watershed district. The  
13.8 board may redistribute the three-year terms upon redistributing the managers among the  
13.9 affected counties or upon increasing the number of managers.

13.10 Sec. 30. Minnesota Statutes 2022, section 103D.305, subdivision 2, is amended to read:

13.11 Subd. 2. **Petition signatures.** The petition to increase the number of managers must  
13.12 request the increase and be signed by one or more of the following groups:

13.13 (1) one-half or more of the counties within the watershed district;

13.14 (2) counties with 50 percent or more of the area within the watershed district;

13.15 (3) a majority or greater number of the cities within the watershed district;

13.16 (4) 50 or more resident owners residing in the watershed district, excluding resident  
13.17 owners within the corporate limits of a city if the city has signed the petition; or

13.18 (5) the managers of the watershed district, by resolution adopted by a majority of the  
13.19 managers of the watershed district.

13.20 Sec. 31. Minnesota Statutes 2022, section 103D.305, subdivision 5, is amended to read:

13.21 Subd. 5. **Hearing.** (a) If the board determines at the hearing that an increase in the  
13.22 number of managers would benefit the public welfare, public interest, and the purpose of  
13.23 this chapter, the board must increase the number of managers. The board must make findings  
13.24 and an order accordingly and file a certified copy of the findings and order with the secretary  
13.25 of state, the auditor of each county affected by the watershed district, the director, and the  
13.26 watershed district. The board's order must prescribe the terms for the new managers to be  
13.27 appointed by the designated county board or boards.

13.28 (b) If the watershed district affects more than one county, the board, by order, must  
13.29 direct the distribution of the managers among the affected counties.

14.1 Sec. 32. Minnesota Statutes 2022, section 103D.311, subdivision 4, is amended to read:

14.2 Subd. 4. **Record of appointed managers.** A record of all appointments made under this  
14.3 section must be filed with the county auditor of each county affected by the watershed  
14.4 district, the secretary or administrator of the board of managers, and the Board of Water  
14.5 and Soil Resources.

14.6 Sec. 33. Minnesota Statutes 2022, section 103D.315, subdivision 9, is amended to read:

14.7 Subd. 9. **First meeting of managers.** (a) Within ~~ten~~ 30 days after the first board of  
14.8 managers has received notice by personal service of their selection, the managers must meet  
14.9 at the watershed district's principal place of business.

14.10 (b) At the first meeting, the managers must take the oath under subdivision 1, provide  
14.11 a bond under subdivision 2, elect officers under subdivision 3, and appoint an advisory  
14.12 committee under section 103D.331.

14.13 Sec. 34. Minnesota Statutes 2022, section 103D.315, subdivision 10, is amended to read:

14.14 Subd. 10. **Meetings.** The managers shall meet annually and at other necessary times to  
14.15 transact the business of the watershed district. A meeting may be called at any time at the  
14.16 request of any manager according to chapter 13D. ~~When a manager requests a meeting, the~~  
14.17 ~~secretary of the watershed district must mail a notice of the meeting to each member at least~~  
14.18 ~~eight days before the meeting.~~

14.19 Sec. 35. Minnesota Statutes 2022, section 103D.321, subdivision 1, is amended to read:

14.20 Subdivision 1. **Unavailable public facilities.** If ~~public~~ publicly accessible facilities are  
14.21 not available for a watershed district's principal place of business within the watershed  
14.22 district, the board shall determine and designate the nearest suitable ~~public~~ publicly accessible  
14.23 facility as the watershed district's principal place of business. The principal place of business  
14.24 is the location of the watershed district's office or, if the district has no office, the location  
14.25 of regular meetings of the board of managers.

14.26 Sec. 36. Minnesota Statutes 2022, section 103D.331, subdivision 2, is amended to read:

14.27 Subd. 2. **Members.** (a) The advisory committee consists of at least five members. If  
14.28 practicable, the advisory committee members selected should include a representative from  
14.29 each soil and water conservation district, a representative of each county, a member of a  
14.30 sporting organization, ~~and~~ a member of a farm organization, and a representative of each  
14.31 federally recognized Tribal government within the watershed district. Other advisory

15.1 committee members may be appointed at the discretion of the managers. The members must  
15.2 be residents of the watershed district, except representatives from Tribal nations, soil and  
15.3 water conservation districts, and counties, and serve at the pleasure of the managers.

15.4 (b) In addition, the managers may appoint other interested and technical persons who  
15.5 may or may not reside within the watershed district to serve at the pleasure of the managers.

15.6 Sec. 37. Minnesota Statutes 2022, section 103D.335, subdivision 11, is amended to read:

15.7 Subd. 11. **Acquiring or disposing of property.** The managers may acquire by gift,  
15.8 purchase, taking under the procedures of this chapter, or by the power of eminent domain,  
15.9 necessary real and personal property. The managers may dispose of real or personal property  
15.10 when the property no longer serves a purpose of the watershed district. The watershed  
15.11 district may acquire property outside the watershed district where necessary for a water  
15.12 supply system.

15.13 Sec. 38. Minnesota Statutes 2022, section 103D.341, subdivision 1, is amended to read:

15.14 Subdivision 1. **Requirement.** The managers must adopt rules ~~to accomplish the purposes~~  
15.15 ~~of this chapter and~~ to implement the regulatory powers of the managers.

15.16 Sec. 39. Minnesota Statutes 2022, section 103D.345, subdivision 4, is amended to read:

15.17 Subd. 4. **Bond; financial assurance.** The managers may require an applicant for a permit  
15.18 to file a bond or other form of financial assurance with the managers in an amount set by  
15.19 the managers and conditioned on performance by the applicant of authorized activities in  
15.20 conformance with the terms of the permit.

15.21 Sec. 40. Minnesota Statutes 2022, section 103D.355, subdivision 1, is amended to read:

15.22 Subdivision 1. **Requirement.** The managers must have an annual audit completed of  
15.23 the books and accounts of the watershed district. The annual audit may be made by a private  
15.24 certified public accountant or by the state auditor. The managers must submit the annual  
15.25 audit report to the board and the state auditor's office within 180 days of the end of the  
15.26 watershed district's fiscal year.

15.27 Sec. 41. [103D.357] REMOVAL OF MANAGERS.

15.28 After being provided an opportunity for a hearing before the appointing authority, a  
15.29 manager of a watershed district may be removed from the position by a majority vote of

16.1 the appointing authority before term expiration for violation of a code of ethics of the  
 16.2 watershed district or appointing authority or for malfeasance, nonfeasance, or misfeasance.

16.3 Sec. 42. Minnesota Statutes 2022, section 103D.401, is amended to read:

16.4 **103D.401 WATERSHED MANAGEMENT PLAN.**

16.5 Subdivision 1. **Contents.** (a) The managers must adopt and maintain a watershed  
 16.6 management plan for any or all of to exercise the powers of a watershed district and fulfill  
 16.7 the purposes for which a watershed district may be established. The watershed management  
 16.8 plan must give a narrative description of existing water and water-related problems within  
 16.9 the watershed district, possible solutions to the problems, and the general objectives of the  
 16.10 watershed district. The watershed management plan must also conform closely with  
 16.11 watershed management plan guidelines as adopted and amended from time to time by the  
 16.12 Board of Water and Soil Resources. The authority to adopt and maintain a watershed  
 16.13 management plan under this section is retained notwithstanding a watershed district's  
 16.14 participation in a comprehensive watershed management planning program under section  
 16.15 103B.801.

16.16 (b) The watershed management plan may include a separate section on proposed projects.  
 16.17 ~~If the watershed district is within the metropolitan area, the separate section of proposed~~  
 16.18 ~~projects or petitions for projects to be undertaken according to the watershed management~~  
 16.19 ~~plan is a comprehensive plan of the watershed district for purposes of review by the~~  
 16.20 ~~Metropolitan Council under section 473.165.~~

16.21 Subd. 2. **Review Reviewing draft plan.** The managers must send a copy of the proposed  
 16.22 watershed management plan for a 60-day review and comment period to the county auditor  
 16.23 of each county affected by the watershed district, the board, ~~the commissioner~~, the director,  
 16.24 the governing body of each municipality affected by the watershed district, and soil and  
 16.25 water conservation districts affected by the watershed district. ~~For a watershed district within~~  
 16.26 ~~the metropolitan area, a copy of the proposed watershed management plan must also be~~  
 16.27 ~~submitted to the Metropolitan Council. At least ten days before the public hearing, the~~  
 16.28 watershed district must respond in writing to all comments by the reviewing parties.

16.29 Subd. 3. **~~Director's and Metropolitan Council's recommendations.~~** ~~After receiving~~  
 16.30 ~~the watershed management plan, the director and the Metropolitan Council must review~~  
 16.31 ~~and make recommendations on the watershed management plan. By 60 days after receiving~~  
 16.32 ~~the plan, the director and the Metropolitan Council must send their recommendations on~~  
 16.33 ~~the watershed management plan to the board and a copy to the managers of the watershed~~  
 16.34 ~~district, the county auditor of each county affected by the watershed district, the governing~~



17.1 ~~bodies of all municipalities affected by the watershed district, and soil and water conservation~~  
17.2 ~~districts affected by the watershed district. The board may extend the period for review and~~  
17.3 ~~transmittal of the recommendations.~~

17.4 Subd. 4. **Hearing notice.** (a) The ~~board~~ managers must give notice and hold a ~~watershed~~  
17.5 ~~management plan~~ hearing on the proposed watershed management plan ~~by 45~~ no later than  
17.6 60 days after ~~receiving the director's and Metropolitan Council's recommendations~~ the close  
17.7 of the 60-day review and comment period.

17.8 (b) The ~~board~~ managers must give notice of the ~~watershed management plan~~ hearing by  
17.9 publication in a legal newspaper that is published in counties affected by the watershed  
17.10 district. The last publication must occur at least ten days before the ~~watershed management~~  
17.11 ~~plan~~ hearing.

17.12 (c) The ~~board~~ managers must give notice of the ~~watershed management plan~~ hearing by  
17.13 mail to the auditors of counties and to the chief executive officials of municipalities affected  
17.14 by the watershed district.

17.15 (d) The notice must include:

17.16 (1) a statement that a copy of the proposed watershed management plan has been filed  
17.17 with the board, ~~the Metropolitan Council, where applicable,~~ the auditors of counties affected  
17.18 by the proposed watershed district, the commissioner, the director, the governing body of  
17.19 each municipality affected by the watershed district, and the soil and water conservation  
17.20 districts affected by the watershed district;

17.21 (2) a general description of the purpose of the watershed district;

17.22 (3) a general description of the property included in the watershed district;

17.23 (4) a general description of the proposed watershed management plan;

17.24 (5) the date, time, and location of the hearing; and

17.25 (6) a statement that all persons affected or interested in the watershed district may attend  
17.26 and give statements at the ~~watershed management plan~~ hearing.

17.27 Subd. 5. **Board approval.** (a) After the watershed management plan hearing, the ~~board~~  
17.28 managers must submit the draft plan, any amendments to the draft plan, all written comments  
17.29 received on the draft plan, a record of the public hearing, and a summary of changes  
17.30 incorporated as a result of the review process to the board for final review. The board must  
17.31 review the plan for conformance with this chapter.

(b) The board must not prescribe a plan but may disapprove all or parts of a plan that the board finds does not conform with this chapter. The board must complete its review within 90 days and, by order, prescribe and approve, disapprove, or approve with conditions a watershed management plan for the watershed district. The board must send a copy of the order and approved watershed management plan to the managers, the county board of each county affected by the watershed district, the commissioner, the director, the Metropolitan Council, where applicable, the governing body of each municipality affected by the watershed district, and soil and water conservation districts affected by the watershed district. The watershed management plan approved by the board is the watershed management plan for the watershed district.

(c) A watershed district may seek reconsideration of a decision of the board concerning its plan or capital improvement program within 60 days of receiving the decision by filing an appeal to the board's dispute resolution committee established under section 103B.101, subdivision 10. The dispute resolution committee must complete its reconsideration and make a recommendation to the board, which must issue a final decision within 90 days of the appeal.

**Subd. 6. Adoption.** Within 120 days of the board's order, the managers must adopt a plan in compliance with the board's order. The managers must send a copy of the order and approved watershed management plan to the board, the county board of each county affected by the watershed district, the commissioner, the director, the governing body of each municipality affected by the watershed district, and soil and water conservation districts affected by the watershed district. The watershed management plan approved by the board and adopted by the managers is the watershed management plan for the watershed district.

**Subd. 7. Amendments.** (a) To the extent and in the manner required by the adopted plan, all amendments to the adopted plan must be submitted to the towns, cities, counties, and state review agencies and to the board for review according to subdivisions 2 to 5, except when the proposed amendments are determined to be minor amendments according to the following requirements:

(1) the board has either agreed that the amendments are minor or failed to act within five working days of the end of the comment period specified in clause (2), unless an extension is mutually agreed upon with the watershed district;

(2) the watershed district has sent copies of the amendments to the plan review authorities for review and comment, allowing at least 30 days for receipt of comments; has indicated

19.1 that the minor amendment procedure is being followed; and has directed that comments be  
19.2 sent to the watershed district and the board;

19.3 (3) no county board has filed an objection to the amendments with the watershed district  
19.4 and the board within the comment period specified in clause (2), unless an extension is  
19.5 mutually agreed upon by the county and the watershed district; and

19.6 (4) the watershed district has held a public meeting to explain the amendments and  
19.7 published a legal notice of the meeting twice, at least seven days and 14 days before the  
19.8 date of the meeting.

19.9 (b) The following changes to a plan do not require an amendment, but must be distributed  
19.10 to agencies and local units of government receiving an adopted plan under subdivision 6:

19.11 (1) formatting or reorganizing the plan;

19.12 (2) revising a procedure meant to streamline administration of the plan;

19.13 (3) clarifying existing plan goals or policies;

19.14 (4) including additional data not requiring interpretation;

19.15 (5) expanding a public process; or

19.16 (6) adjusting how a watershed district carries out program activities within the district's  
19.17 discretion.

19.18 Sec. 43. Minnesota Statutes 2022, section 103D.405, subdivision 1, is amended to read:

19.19 Subdivision 1. **Requirements.** (a) The managers ~~and the board~~ must revise the watershed  
19.20 management plan for the watershed district at least once every ten years after the original  
19.21 watershed management plan is approved. The revised watershed management plan of the  
19.22 district must conform closely with adopted watershed management plan guidelines of the  
19.23 board of Water and Soil Resources.

19.24 (b) The managers must include the following items in the revised watershed management  
19.25 plan:

19.26 (1) updates and supplements of the existing hydrological and other statistical data of the  
19.27 watershed district;

19.28 (2) specific projects and programs to be considered for implementation;

19.29 (3) a statement of the extent that the purposes for which the watershed district had been  
19.30 established have been accomplished;

20.1 (4) a description of problems requiring future action by the watershed district;

20.2 (5) a summary of completed studies on active or planned projects, including financial  
20.3 data; and

20.4 (6) an analysis of the effectiveness of the watershed district's rules and permits in  
20.5 achieving its water management objectives in the watershed district.

20.6 (c) A revised watershed management plan must be transmitted, reviewed, recommended,  
20.7 and approved as provided in subdivisions 2 to 4 and 6.

20.8 Sec. 44. Minnesota Statutes 2022, section 103D.535, subdivision 3, is amended to read:

20.9 Subd. 3. **Appeals from managers' orders.** (a) If an appeal is taken from an order  
20.10 authorizing a project, a trial of an appeal of benefits or damages from the proceedings must  
20.11 be stayed until the appeal is decided. If the order authorizing the project is affirmed, a trial  
20.12 of an appeal of benefits or damages may commence.

20.13 (b) If the appeal is from an order refusing to authorize a project and the court or the  
20.14 board later orders the project, the secretary or administrator of the watershed district shall  
20.15 give notice by publication of the filing of the order. The notice is sufficient if it refers to  
20.16 the proposed project by general description and recites the substance of the order and the  
20.17 date of filing in the court.

20.18 Sec. 45. Minnesota Statutes 2022, section 103D.701, is amended to read:

20.19 **103D.701 PROJECT INITIATION.**

20.20 Projects may not be initiated until the board approves a watershed management plan for  
20.21 the watershed district. ~~The projects~~ A project of the watershed district ~~that are to be paid~~  
20.22 ~~for by assessment of the benefited properties~~ must be initiated:

20.23 (1) by a project petition filed with the managers;

20.24 (2) by ~~unanimous~~ resolution of a majority of the members of the board of managers; or

20.25 (3) as otherwise prescribed by this chapter.

20.26 Sec. 46. Minnesota Statutes 2022, section 103D.705, subdivision 1, is amended to read:

20.27 Subdivision 1. **Requirements.** (a) A project within the watershed district that generally  
20.28 conforms with the watershed management plan may be initiated by a project petition. A  
20.29 project petition must contain:

20.30 (1) a description of the proposed project and the purpose to be accomplished;

21.1 (2) a description of the property where the proposed project passes over or is located;

21.2 (3) a general description of the part of the watershed district that will be affected, if less  
21.3 than the entire watershed district;

21.4 (4) the necessity for the proposed project;

21.5 (5) a statement that the proposed project will be conducive to public health, convenience,  
21.6 and welfare; and

21.7 (6) a statement that the petitioners will pay all costs and expenses that may be incurred  
21.8 if the proceedings are dismissed or a construction or implementation contract is not awarded  
21.9 for the proposed project.

21.10 (b) A petition may request that the managers adopt a resolution according to section  
21.11 103D.707, subdivision 1, to allow sources of funding other than assessment to be used in  
21.12 whole or in part for the project. Upon adopting a requested resolution, the managers must  
21.13 release the deposit or bond required under subdivision 3.

21.14 Sec. 47. Minnesota Statutes 2022, section 103D.705, is amended by adding a subdivision  
21.15 to read:

21.16 Subd. 5. **Determination.** If the managers determine that a proper project petition has  
21.17 been filed and that the proposed project promotes the public interest and welfare, is  
21.18 practicable, and conforms with the watershed management plan of the watershed district,  
21.19 the managers must:

21.20 (1) identify the project by name and number; and

21.21 (2) designate an engineer to make surveys, maps, and a report on the proposed project.

21.22 Sec. 48. **[103D.707] PROJECTS INITIATED BY MANAGERS.**

21.23 Subdivision 1. **Resolution.** A majority of the members of the board of managers may  
21.24 initiate a project by a resolution finding that the project generally conforms with the  
21.25 watershed management plan of the watershed district. The resolution must:

21.26 (1) identify the project by name and number;

21.27 (2) identify intended sources of project funding; and

21.28 (3) designate an engineer to make surveys, maps, and a report on the proposed project.

21.29 Subd. 2. **Funding.** (a) A project initiated under this section may be funded from one or  
21.30 more sources of funds available to the watershed district, including but not limited to levy,

22.1 assessment, a water management district charge, and external sources. The availability and  
22.2 use of a source of funding must be as specified in applicable law.

22.3 (b) The finding under subdivision 1 as to intended sources of funding is not binding on  
22.4 the managers. However, the procedures of this chapter must be afforded to property owners  
22.5 affected by any subsequent decision of the managers to expand the use of assessment.

22.6 Subd. 3. **Determining benefits.** Procedures in section 103D.715 for appointing resident  
22.7 appraisers and determining benefits apply to a project initiated by resolution of the managers  
22.8 only if and to the extent that a project is to be funded in whole or part by assessment.

22.9 Sec. 49. Minnesota Statutes 2022, section 103D.711, is amended to read:

22.10 **103D.711 ENGINEER'S REPORT.**

22.11 ~~Subdivision 1. **Determination.** If the managers determine that a proper project petition~~  
22.12 ~~has been filed, the proposed project promotes the public interest and welfare, is practicable~~  
22.13 ~~and conforms with the watershed management plan of the watershed district, the managers~~  
22.14 ~~must:~~

22.15 ~~(1) identify the project proceeding by name and number; and~~

22.16 ~~(2) designate an engineer to make surveys, maps, and a report on the proposed project.~~

22.17 Subd. 2. **Requirements.** (a) The engineer's report must include findings and  
22.18 recommendations about the proposed project. If the engineer finds the project feasible, the  
22.19 engineer must provide a plan of the proposed project as part of the report. The plan must  
22.20 include:

22.21 (1) a map of the project area, drawn to scale, showing the location of the proposed  
22.22 improvements, if any;

22.23 (2) the estimated total cost of completing the project including construction, operation,  
22.24 implementation, supervision, and administrative costs;

22.25 (3) the acreage required as right-of-way listed by each lot and 40-acre tract or fraction  
22.26 of the lot or tract under separate ownership, if required to implement the project; and

22.27 (4) other details and information to inform the managers of the practicability and necessity  
22.28 of the proposed project with the engineer's recommendations on these matters.

22.29 (b) The map of the area must include:

22.30 (1) the location and adequacy of the outlet, if the project is related to drainage;

22.31 (2) the watershed of the project area;

23.1 (3) the location of existing highways, bridges, and culverts;

23.2 (4) the property, highways, and utilities affected by the project with the names of the  
23.3 known property owners;

23.4 (5) the location of public land and water affected by the project; and

23.5 (6) other physical characteristics of the watershed necessary to understand the area.

23.6 Subd. 3. **State and federal projects.** The engineer may adopt, approve, and include as  
23.7 a part of the engineer's report a project of the state or federal government that is pertinent  
23.8 to the project and may accept data, plats, plans, details, or information pertaining to the  
23.9 state or federal project given to the ~~engineer~~ watershed district by the state or federal agency.  
23.10 The engineer ~~shall~~ may omit the items required in subdivision 2 from the engineer's report  
23.11 if the data given by the state or federal government is sufficient to meet the requirements  
23.12 of subdivision 2.

23.13 Subd. 4. **Hearing after unfavorable engineer's report.** (a) If the project has been  
23.14 initiated by petition and the engineer's report is unfavorable, the managers shall, by order,  
23.15 within 35 days set a time and place within the watershed district for a hearing for the  
23.16 petitioners to demonstrate why the managers should not refer the petition back to the  
23.17 petitioners for further proceedings or dismiss the petition.

23.18 (b) The hearing notice must state:

23.19 (1) that the engineer's report is unfavorable;

23.20 (2) that the engineer's report is on file with the managers and may be reviewed; and

23.21 (3) the time and place for the hearing.

23.22 (c) The managers shall mail a copy of the notice to each of the petitioners at least 14  
23.23 days before the hearing.

23.24 Subd. 5. **Advisory reports.** (a) When the engineer's report is filed with the managers,  
23.25 the managers shall send a complete copy to the director and to the board.

23.26 (b) The director and the board shall examine the engineer's report and by 30 days after  
23.27 receiving the report, the director shall make a director's advisory report and the board shall  
23.28 make a board's advisory report which must include:

23.29 (1) a statement on whether the engineer's report is incomplete and not in accordance  
23.30 with this chapter;

23.31 (2) a statement of whether the engineer's report is approved as being a practical plan;

(3) if the project as planned does not meet approval, recommendations for changes considered advisable must be stated or an opinion that the proposed project or improvement is not practical; and

(4) a recommendation as to whether a soil survey appears advisable.

(c) The director's advisory report and the board's advisory report shall be directed to and filed with the managers.

(d) The director's advisory report and the board's advisory report shall be considered advisory only.

Subd. 6. **Notice for final hearing; timing.** A notice may not be issued for the final hearing until the board's advisory report and the director's advisory report are filed or the time for filing the reports with the managers has expired. For projects initiated by the managers according to section 103D.707, the managers may decide at any time not to proceed to final hearing.

Subd. 7. **Form.** The findings, recommendations, and content of the engineering report shall conform as nearly as practicable to the requirements of this section.

Subd. 8. **Soil survey.** If a soil survey is recommended to be made in the director's advisory report or the board's advisory report, the engineer shall make the soil survey and a soil survey report. The soil survey report must be submitted to the managers before the final hearing.

Sec. 50. Minnesota Statutes 2022, section 103D.715, subdivision 1, is amended to read:

Subdivision 1. **Appointment.** After the engineer's report is filed, if the project is proposed to be funded in whole or in part by assessments of benefitted land owners, the managers shall, with the least possible delay, appoint three disinterested resident owners of the state as appraisers.

Sec. 51. Minnesota Statutes 2022, section 103D.729, subdivision 1, is amended to read:

Subdivision 1. **Establishment.** A watershed district may establish a water management district or districts in the territory within the watershed, for the purpose of collecting revenues and paying the costs of projects initiated under section 103B.231, ~~103D.601, 103D.605, 103D.611,~~ 103D.701, or 103D.730.



25.1 Sec. 52. Minnesota Statutes 2022, section 103D.729, subdivision 2, is amended to read:

25.2 Subd. 2. **Procedure.** A watershed district may establish a water management district  
25.3 only by amendment to its plan in accordance with section ~~103D.411, or~~ 103D.401, or  
25.4 103B.231 for watershed districts in the metropolitan area, and compliance with subdivisions  
25.5 3 and 4. The amendment ~~shall~~ must describe with particularity the territory or the area to  
25.6 be included in the water management district, the amount of the necessary charges, the  
25.7 methods used to determine charges, and the length of time the water management district  
25.8 will remain in force. After adoption, the amendment ~~shall~~ must be filed with the county  
25.9 auditor and county recorder of each county affected by the water management district.  
25.10 Charges must be collected according to section 444.075, subdivision 2a. The water  
25.11 management district may be dissolved by the procedure prescribed for the establishment of  
25.12 the water management district.

25.13 Sec. 53. Minnesota Statutes 2022, section 103D.731, is amended to read:

25.14 **103D.731 APPRAISERS' REPORT; EXAMINATION.**

25.15 (a) The appraisers shall prepare an appraisers' report of the benefits and damages  
25.16 determined and file the report with the managers.

25.17 (b) After the appraisers' report is filed, the managers shall examine the report and  
25.18 determine whether:

25.19 (1) the report was made in conformity with the requirements of this chapter; and

25.20 (2) for each property to be assessed, the total benefits are greater than the total estimated  
25.21 costs and damages to be assessed.

25.22 (c) If the managers determine the appraisers' report is inadequate in any manner, the  
25.23 managers may return the report to the appraisers for further study and report.

25.24 Sec. 54. Minnesota Statutes 2022, section 103D.745, subdivision 3, is amended to read:

25.25 Subd. 3. **Establishing project.** (a) The managers shall make findings, order and direct  
25.26 construction or implementation of the project, and confirm the ~~engineer's~~ technical report  
25.27 and the findings of the appraisers and the appraisers' report if, at the end of the final hearing,  
25.28 the managers find that the project will:

25.29 (1) be conducive to public health;

25.30 (2) promote the general welfare;

25.31 (3) be in compliance with this chapter; and

(4) for each property to be assessed, result in benefits that will be greater than the cost ~~of the construction or implementation and damages~~ to be assessed.

(b) The order may authorize the construction or implementation of the project as a whole or authorize different parts of the project to be constructed separately.

(c) The managers shall order the engineer to proceed with making the necessary surveys and preparing plans and specifications that are needed to construct the project and report the results of the surveys and plans to the managers.

Sec. 55. Minnesota Statutes 2022, section 103D.805, is amended to read:

**103D.805 FILING MANAGERS' ORDER ESTABLISHING PROJECT.**

An order of the managers establishing the project and authorizing construction must immediately be filed with the secretary or administrator of the watershed district, and a certified copy of the order must be filed with the auditor of each county affected, the board, the commissioner, the director, the Pollution Control Agency, and the commissioner of health.

Sec. 56. Minnesota Statutes 2022, section 103D.811, subdivision 3, is amended to read:

Subd. 3. **Awarding contract.** (a) At a time and place specified in the bid notice, the managers may accept or reject any or all bids and may award the contract to the lowest responsible bidder. The bidder to whom the contract is to be awarded must give a bond, ~~with ample security~~ as required by section 574.26, conditioned by satisfactory completion of the contract.

(b) Bids must not be considered which in the aggregate exceed by more than 30 percent the total estimated cost of construction or implementation.

(c) As an alternative to the procurement method described in paragraph (a), the managers may issue a request for proposals and award the contract to the vendor or contractor offering the best value as described in section 16C.28, subdivision 1, paragraph (a), clause (2), and paragraph (c).

(d) The contract must be in writing and be accompanied by or refer to the plans and specifications for the work to be done as prepared by the engineer for the watershed district. The plans and specifications shall become a part of the contract.

(e) The contract ~~shall~~ must be approved by the managers ~~and signed by the president, secretary, and contractor.~~

27.1 Sec. 57. Minnesota Statutes 2022, section 103D.901, subdivision 2, is amended to read:

27.2 Subd. 2. **County funding.** After the assessment statement is filed with the auditor, the  
27.3 county board of each affected county shall provide funds to meet its proportionate share of  
27.4 the total cost of the project, as shown by the engineer's report and order of the managers.  
27.5 The county may issue bonds of the county in the manner provided by section 103E.635. If  
27.6 ~~an improvement is to be constructed under section 103D.611, the provisions of section~~  
27.7 ~~103E.635 requiring the county board to award a contract for construction or implementation~~  
27.8 ~~before issuing bonds is not applicable to bonds issued to provide the funds required to be~~  
27.9 ~~furnished by this section.~~

27.10 Sec. 58. Minnesota Statutes 2022, section 103E.729, subdivision 9, is amended to read:

27.11 Subd. 9. **Sunset.** This section expires on July 31, ~~2024~~ 2029.

27.12 Sec. 59. Minnesota Statutes 2022, section 103F.48, subdivision 1, is amended to read:

27.13 Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms have  
27.14 the meanings given them.

27.15 (b) "Board" means the Board of Water and Soil Resources.

27.16 (c) "Buffer" means an area consisting of perennial vegetation, excluding invasive plants  
27.17 and noxious weeds, adjacent to all bodies of water within the state and that protects the  
27.18 water resources of the state from runoff pollution; stabilizes soils, shores, and banks; and  
27.19 protects or provides riparian corridors.

27.20 (d) "Buffer-protection map" means buffer maps established and maintained by the  
27.21 commissioner of natural resources.

27.22 (e) "Commissioner" means the commissioner of natural resources.

27.23 (f) "Executive director" means the executive director of the Board of Water and Soil  
27.24 Resources.

27.25 (g) "Local water management authority" means a watershed district, metropolitan water  
27.26 management organization, or county operating separately or jointly in its role as local water  
27.27 management authority under chapter 103B or 103D.

27.28 (h) "Normal water level" means the level evidenced by the long-term presence of surface  
27.29 water as indicated directly by hydrophytic plants or hydric soils or indirectly determined  
27.30 via hydrological models or analysis.

28.1 (i) "Public waters" means public waters that are on the public waters inventory as provided  
28.2 in section 103G.201.

28.3 (j) "With jurisdiction" means a board determination that the county or watershed district  
28.4 has adopted and is implementing a rule, ordinance, or official controls providing procedures  
28.5 for the issuance of administrative penalty orders, enforcement, and appeals for purposes of  
28.6 this section and section 103B.101, subdivision 12a. This determination is revocable.

28.7 Sec. 60. Minnesota Statutes 2022, section 103F.511, is amended by adding a subdivision  
28.8 to read:

28.9 Subd. 1a. **Agricultural crop production.** "Agricultural crop production" means an  
28.10 agricultural activity that is devoted to producing horticultural, row, close-grown, introduced  
28.11 pasture, or introduced hayland crops and includes but is not limited to tillage, planting, or  
28.12 harvesting operations.

28.13 Sec. 61. Minnesota Statutes 2022, section 103F.511, is amended by adding a subdivision  
28.14 to read:

28.15 Subd. 1b. **Agricultural land.** "Agricultural land" means land devoted to the following  
28.16 uses and includes any contiguous land associated with the uses:

28.17 (1) pasture or hayland for domestic livestock or dairy animals;

28.18 (2) producing agricultural crops;

28.19 (3) growing nursery stocks; or

28.20 (4) animal feedlots.

28.21 Sec. 62. Minnesota Statutes 2022, section 103F.511, is amended by adding a subdivision  
28.22 to read:

28.23 Subd. 1c. **Approved practice.** "Approved practice" means a conservation practice that  
28.24 may be established on an easement area and that meets the requirements of section 103F.527.

28.25 Sec. 63. Minnesota Statutes 2022, section 103F.511, is amended by adding a subdivision  
28.26 to read:

28.27 Subd. 3a. **Conservation easement program.** "Conservation easement program" means:

28.28 (1) the reinvest in Minnesota reserve program under section 103F.515;

28.29 (2) the permanent wetlands preserve program under section 103F.516;

29.1 (3) the reinvest in Minnesota clean energy program under section 103F.518; or

29.2 (4) the reinvest in Minnesota working lands program under section 103F.519.

29.3 Sec. 64. Minnesota Statutes 2022, section 103F.511, is amended by adding a subdivision  
29.4 to read:

29.5 Subd. 3b. **Conservation plan.** "Conservation plan" means a written description and map  
29.6 of approved practices that must be applied to or that already exist on an easement area.

29.7 Sec. 65. Minnesota Statutes 2022, section 103F.511, is amended by adding a subdivision  
29.8 to read:

29.9 Subd. 5b. **Food plot.** "Food plot" means an area established to provide food for wildlife.

29.10 Sec. 66. Minnesota Statutes 2022, section 103F.511, is amended by adding a subdivision  
29.11 to read:

29.12 Subd. 5d. **Land with crop history.** "Land with crop history" means land that has  
29.13 produced horticultural, row, or close-grown crops or that has been enrolled at a cropland  
29.14 rate in a federal or state conservation program for at least two of the five years preceding  
29.15 an application to enroll the land in a conservation easement program. Land with crop history  
29.16 includes acres devoted to set-aside or conserving use for programs of the United States  
29.17 Department of Agriculture.

29.18 Sec. 67. Minnesota Statutes 2022, section 103F.511, is amended by adding a subdivision  
29.19 to read:

29.20 Subd. 7a. **Pasture.** "Pasture" means land that is used for grazing by domestic livestock  
29.21 and that is not considered land with crop history.

29.22 Sec. 68. Minnesota Statutes 2022, section 103F.511, is amended by adding a subdivision  
29.23 to read:

29.24 Subd. 7b. **Perennial cover.** "Perennial cover" means:

29.25 (1) existing or established perennial vegetation within the easement boundary; or

29.26 (2) a restored or existing wetland or water-covered area within the easement boundary.

30.1 Sec. 69. Minnesota Statutes 2022, section 103F.515, is amended to read:

30.2 **103F.515 REINVEST IN MINNESOTA RESERVE PROGRAM.**

30.3 Subdivision 1. **Establishment.** The board, in consultation with the commissioner of  
30.4 agriculture and the commissioner of natural resources, shall establish and administer the  
30.5 reinvest in Minnesota reserve program. The board shall implement sections 103F.505 to  
30.6 103F.531. Selection of land for the reinvest in Minnesota reserve program must be based  
30.7 on its ~~enhancement potential for fish, wildlife, and native plant habitats, reducing erosion,~~  
30.8 ~~and protecting water quality~~ benefit to accomplishing the purposes in section 103F.505.

30.9 Subd. 2. **Eligible land.** (a) Land may be placed in the reinvest in Minnesota reserve  
30.10 program if the land meets the requirements of paragraphs (b) and (c) or paragraph (d).

30.11 (b) Land is eligible if the land:

30.12 (1) is marginal agricultural land;

30.13 (2) is adjacent to marginal agricultural land and is either beneficial to resource protection  
30.14 or necessary for efficient recording of the land description;

30.15 (3) consists of a drained wetland;

30.16 (4) is land that with a windbreak or water quality improvement practice would be  
30.17 beneficial to resource protection;

30.18 (5) is land in a sensitive groundwater area;

30.19 (6) is riparian or floodplain land;

30.20 (7) is cropland or noncropland adjacent to restored wetlands to the extent of up to eight  
30.21 acres of cropland or ~~one acre of~~ noncropland for each acre of wetland restored;

30.22 (8) is a woodlot on agricultural land;

30.23 (9) is abandoned building site on agricultural land, provided that funds are not used for  
30.24 compensation of the value of the buildings; ~~or~~

30.25 (10) is land used for pasture; or

30.26 (11) is land in an environmentally sensitive area, including grasslands, peatlands,  
30.27 shorelands, karst geology, trout stream watersheds, and forest lands in priority areas.

30.28 (c) Eligible land under paragraph (a) must:

30.29 (1) be owned by the landowner, or a parent or other blood relative of the landowner, for  
30.30 at least one year before the date of application;

31.1 ~~(2) be at least five acres in size, except for a drained wetland area, riparian area,~~  
31.2 ~~windbreak, woodlot, wellhead protection area, or abandoned building site, or be a whole~~  
31.3 ~~field;~~

31.4 ~~(3)~~ (2) not be set aside, enrolled or diverted under another federal or state government  
31.5 program unless enrollment in the reinvest in Minnesota reserve program would provide  
31.6 additional conservation benefits or a longer term of enrollment than under the current federal  
31.7 or state program; and

31.8 ~~(4) have been in agricultural crop production for at least two of the last five years before~~  
31.9 ~~the date of application except drained wetlands, riparian lands, woodlots, abandoned building~~  
31.10 ~~sites, environmentally sensitive areas, wellhead protection areas, or land used for pasture.~~

31.11 (3) benefit the purposes in section 103F.505.

31.12 (d) Land is eligible if the land is within a wellhead protection area as defined under  
31.13 section 103I.005, subdivision 24, and has a wellhead protection plan approved by the  
31.14 commissioner of health.

31.15 (e) In selecting land for enrollment in the program, highest priority must be given to  
31.16 permanent easements that are consistent with the purposes stated in section 103F.505.

31.17 Subd. 3. **Conservation easements.** (a) The board may acquire, or accept by gift or  
31.18 donation, conservation easements on eligible land. An easement may be permanent or of  
31.19 limited duration. An easement acquired on land for wetland restoration or windbreak  
31.20 purposes, under subdivision 2, may be only of permanent duration. An easement of limited  
31.21 duration may not be acquired if it is for a period less than 20 years. The negotiation and  
31.22 acquisition of easements authorized by this section are exempt from the contractual provisions  
31.23 of chapters 16B and 16C.

31.24 (b) The board may acquire, or accept by gift or donation, flowage easements when  
31.25 necessary for completion of wetland restoration projects.

31.26 Subd. 4. **Nature of property rights acquired.** (a) A conservation easement must prohibit:

31.27 (1) alteration of wildlife habitat and other natural features, unless specifically approved  
31.28 by the board;

31.29 (2) agricultural crop production and livestock grazing, unless specifically approved by  
31.30 the board for conservation management purposes or extreme drought; and

31.31 (3) spraying with chemicals or mowing, except:

31.32 (i) as necessary to comply with noxious weed control laws;

32.1 (ii) for emergency control of pests necessary to protect public health; or

32.2 (iii) as approved by the board for conservation management purposes; and

32.3 (4) extracting or mining any gravel, rock, topsoil, or minerals from the site by surface  
32.4 or subsurface mining.

32.5 (b) A conservation easement is subject to the terms of the agreement provided in  
32.6 subdivision 5.

32.7 (c) A conservation easement must allow repairs, improvements, and inspections necessary  
32.8 to maintain public drainage systems provided the easement area is restored to the condition  
32.9 required by the terms of the conservation easement.

32.10 (d) Notwithstanding paragraph (a), the board must permit the harvest of native grasses  
32.11 for use in seed production or bioenergy on wellhead protection lands eligible under  
32.12 subdivision 2, paragraph (d).

32.13 (e) A conservation easement must allow the board and its employees and agents to enter  
32.14 the easement area for inspection and for enforcing the terms and conditions of the  
32.15 conservation easement.

32.16 Subd. 5. **Agreements by landowner.** The board may enroll eligible land in the reinvest  
32.17 in Minnesota reserve program by signing an agreement ~~in recordable form~~ with a landowner  
32.18 in which the landowner agrees:

32.19 (1) to convey to the state a conservation easement that is not subject to any prior ~~title,~~  
32.20 ~~lien, or encumbrance~~ liens or encumbrances that are determined to be objectionable by the  
32.21 attorney general;

32.22 (2) to seed the land subject to the conservation easement, as specified in the agreement,  
32.23 to establish and maintain perennial cover of either a grass-legume mixture or native grasses  
32.24 for the term of the easement, at seeding rates determined by the board; or to plant trees or  
32.25 carry out other long-term capital improvements approved by the board for soil and water  
32.26 conservation or wildlife management;

32.27 (3) to convey to the state a permanent easement for the wetland restoration;

32.28 ~~(4) that other land supporting natural vegetation owned or leased as part of the same~~  
32.29 ~~farm operation at the time of application, if it supports natural vegetation and has not been~~  
32.30 ~~used in agricultural crop production, will not be converted to agricultural crop production~~  
32.31 ~~or pasture; and~~



33.1 ~~(5)~~ (4) that the easement duration may be lengthened through mutual agreement with  
33.2 the board in consultation with the commissioners of agriculture and natural resources if  
33.3 they determine that the changes effectuate the purpose of the program or facilitate its  
33.4 administration;

33.5 (5) to be responsible for operating and maintaining approved practices designated in the  
33.6 conservation plan;

33.7 (6) to pay, when due, all taxes and assessments that may be levied against the easement  
33.8 area;

33.9 (7) to remove any existing structures as required before the conservation easement is  
33.10 conveyed and not place, erect, or construct structures on the easement area;

33.11 (8) to remove any existing hazardous and toxic substances or any pollutants and  
33.12 contaminants before the conservation easement is conveyed and not place such substances,  
33.13 pollutants, or contaminants on the easement area; and

33.14 (9) to properly seal all abandoned wells on the easement area before the conservation  
33.15 easement is conveyed and pay all associated costs.

33.16 Subd. 6. **Payments for easements.** (a) The board shall establish rates for payments to  
33.17 the landowner for the conservation easement and related practices. The board shall consider  
33.18 market factors, including the township average equalized estimated market value of property  
33.19 as established by the commissioner of revenue at the time of easement application.

33.20 (b) The board may establish a payment system for flowage easements acquired under  
33.21 this section.

33.22 (c) For wetland restoration projects involving more than one conservation easement,  
33.23 state payments for restoration costs may exceed the limits set by the board for an individual  
33.24 easement provided the total payment for the restoration project does not exceed the amount  
33.25 payable for the total number of acres involved.

33.26 ~~(d) The board may use available nonstate funds to exceed the payment limits in this~~  
33.27 ~~section.~~

33.28 Subd. 7. **Easement renewal.** When a conservation easement of limited duration expires,  
33.29 a new conservation easement and agreement for an additional period of not less than 20  
33.30 years may be acquired by agreement of the board and the landowner, under the terms of  
33.31 this section. The board may adjust payment rates as a result of renewing an agreement and  
33.32 conservation easement only after examining the condition of the established cover,  
33.33 conservation practices, and land values.

Subd. 8. **Correcting boundary lines.** To correct errors in legal descriptions for easements that affect the ownership interests in the state and adjacent landowners, the board may, in the name of the state, with the approval of the attorney general, convey, without consideration, interests of the state necessary to correct legal descriptions of boundaries. The conveyance must be by quitclaim deed or release in a form approved by the attorney general.

Subd. 9. **Enforcement and damages.** (a) A landowner who violates the term of a conservation easement or agreement under this section, or induces, assists, or allows another to do so, is liable to the state for treble damages if the trespass is willful, but liable for double damages only if the trespass is not willful. The amount of damages is the amount needed to make the state whole or the amount the landowner has gained due to the violation, whichever is greater.

(b) ~~Upon the request of the board,~~ The board may request that the attorney general commence a legal action for a violation, and the attorney general may commence an action for specific performances, injunctive relief, damages, including attorney's fees, and any other appropriate relief to enforce sections 103F.505 to 103F.531 in district court in the county where all or part of the violation is alleged to have been committed, or where the landowner resides or has a principal place of business. In addition to or in lieu of making a request under this paragraph, the board may use its authority under section 103B.101, subdivision 12, to issue a penalty order for a violation. The penalties may be forgiven, in whole or in part, upon compliance with the conservation easement conditions.

(c) A landowner is not in violation of the conservation easement if a failure of approved practices was caused by reasons beyond the landowner's control.

Subd. 10. **Use for mitigation prohibited.** Money made available under the reinvest in Minnesota reserve program may not be used for environmental regulatory or wetland mitigation purposes required under federal or state law.

Sec. 70. **[103F.527] CONSERVATION PRACTICES.**

Subdivision 1. **Approved practices.** An approved practice must be consistent with section 103F.505. The landowner is responsible for establishing all approved practices on the easement area as specified by the board.

Subd. 2. **Approved practices eligible for reimbursement.** The board must determine which approved practices are eligible for payments or reimbursement under a conservation

easement program. Food plots are not eligible for payments or reimbursement under a conservation easement program.

Subd. 3. **Money from other sources.** The board may augment money available to pay for or reimburse approved practices with money from other agencies, organizations, or individuals.

**Sec. 71. [103F.528] SOIL AND WATER CONSERVATION DISTRICT RESPONSIBILITIES.**

Subdivision 1. **Program delegation.** With the consent of the Board of Water and Soil Resources, a district may enter into an agreement with others, as authorized under section 103C.231, to delegate, in whole or in part, the responsibility for administering a conservation easement program.

Subd. 2. **Land in more than one district.** If an application involves land in more than one district, the districts or delegated parties may jointly agree for one of the districts or delegated parties to be the responsible party to review and prioritize the application and complete all tasks necessary to convey the conservation easement to the Board of Water and Soil Resources.

Subd. 3. **Violations and enforcement.** The district may take measures that are necessary to ensure landowner compliance with the conservation agreement, conservation easement, and conservation plan. If the district is unsuccessful in obtaining landowner compliance, the district must notify the Board of Water and Soil Resources of the violation and may recommend appropriate measures to be taken to correct the violation.

Sec. 72. Minnesota Statutes 2022, section 103F.535, subdivision 5, is amended to read:

Subd. 5. **Altering conservation easements.** (a) Conservation easements may be altered, released, or terminated by the board after consultation with the commissioners of agriculture and natural resources. The board may alter, release, or terminate a conservation easement only if the board determines that the public interest and general welfare are better served by the alteration, release, or termination.

(b) The board may adopt policies and procedures to implement this subdivision, including provisions to ensure at least equal resource value as a condition of approving a request to alter, release, or terminate a conservation easement.

(c) The landowner must compensate the board for damages and loss of benefits to the conservation easement that result from the alteration, release, or termination. The board

36.1 may require the landowner to reimburse the board's administrative expenses and costs  
36.2 incurred in altering, releasing, or terminating a conservation easement.

36.3 Sec. 73. Minnesota Statutes 2022, section 103G.005, subdivision 14d, is amended to read:

36.4 Subd. 14d. **Project.** "Project" means a specific plan, contiguous activity, proposal, or  
36.5 design necessary to accomplish a goal as defined by the local government unit. As used in  
36.6 this chapter, a project may not be split into components or phases for the sole purpose of  
36.7 gaining additional exemptions.

36.8 Sec. 74. Minnesota Statutes 2022, section 103G.005, subdivision 17b, is amended to read:

36.9 Subd. 17b. **Wetland type.** "Wetland type" means a wetland type classified according  
36.10 to *Wetlands of the United States*, United States Fish and Wildlife Service Circular 39 (1971  
36.11 edition), as summarized in this subdivision or *A Hydrogeomorphic Classification for*  
36.12 *Wetlands*, United States Army Corps of Engineers (August 1993), including updates,  
36.13 supplementary guidance, and replacements, if any, as determined by the board.

36.14 ~~(1) "Type 1 wetlands" are seasonally flooded basins or flats in which soil is covered~~  
36.15 ~~with water or is waterlogged during variable seasonal periods but usually is well drained~~  
36.16 ~~during much of the growing season. Type 1 wetlands are located in depressions and in~~  
36.17 ~~overflow bottomlands along watercourses, and in which vegetation varies greatly according~~  
36.18 ~~to season and duration of flooding and includes bottomland hardwoods as well as herbaceous~~  
36.19 ~~growths.~~

36.20 ~~(2) "Type 2 wetlands" are inland fresh meadows in which soil is usually without standing~~  
36.21 ~~water during most of the growing season but is waterlogged within at least a few inches of~~  
36.22 ~~surface. Vegetation includes grasses, sedges, rushes, and various broad-leaved plants.~~  
36.23 ~~Meadows may fill shallow basins, sloughs, or farmland sags, or these meadows may border~~  
36.24 ~~shallow marshes on the landward side.~~

36.25 ~~(3) "Type 3 wetlands" are inland shallow fresh marshes in which soil is usually~~  
36.26 ~~waterlogged early during a growing season and often covered with as much as six inches~~  
36.27 ~~or more of water. Vegetation includes grasses, bulrushes, spikerushes, and various other~~  
36.28 ~~marsh plants such as cattails, arrowheads, pickerelweed, and smartweeds. These marshes~~  
36.29 ~~may nearly fill shallow lake basins or sloughs, or may border deep marshes on the landward~~  
36.30 ~~side and are also common as seep areas on irrigated lands.~~

36.31 ~~(4) "Type 4 wetlands" are inland deep fresh marshes in which soil is usually covered~~  
36.32 ~~with six inches to three feet or more of water during the growing season. Vegetation includes~~

37.1 cattails, reeds, bulrushes, spikerushes, and wild rice. In open areas, pondweeds, naiads,  
37.2 coontail, water milfoils, waterweeds, duckweeds, waterlilies, or spatterdock may occur.  
37.3 These deep marshes may completely fill shallow lake basins, potholes, limestone sinks, and  
37.4 sloughs, or they may border open water in such depressions.

37.5 (5) "Type 5 wetlands" are inland open fresh water, shallow ponds, and reservoirs in  
37.6 which water is usually less than ten feet deep and is fringed by a border of emergent  
37.7 vegetation similar to open areas of type 4 wetland.

37.8 (6) "Type 6 wetlands" are shrub swamps in which soil is usually waterlogged during  
37.9 growing season and is often covered with as much as six inches of water. Vegetation includes  
37.10 alders, willows, buttonbush, dogwoods, and swamp privet. This type occurs mostly along  
37.11 sluggish streams and occasionally on floodplains.

37.12 (7) "Type 7 wetlands" are wooded swamps in which soil is waterlogged at least to within  
37.13 a few inches of the surface during growing season and is often covered with as much as one  
37.14 foot of water. This type occurs mostly along sluggish streams, on floodplains, on flat uplands,  
37.15 and in shallow basins. Trees include tamarack, arborvitae, black spruce, balsam, red maple,  
37.16 and black ash. Northern evergreen swamps usually have a thick ground cover of mosses.  
37.17 Deciduous swamps frequently support beds of duckweeds and smartweeds.

37.18 (8) "Type 8 wetlands" are bogs in which soil is usually waterlogged and supports a  
37.19 spongy covering of mosses. This type occurs mostly in shallow basins, on flat uplands, and  
37.20 along sluggish streams. Vegetation is woody or herbaceous or both. Typical plants are heath  
37.21 shrubs, sphagnum moss, and sedges. In the north, leatherleaf, Labrador tea, cranberries,  
37.22 carex, and cottongrass are often present. Scattered, often stunted, black spruce and tamarack  
37.23 may occur.

37.24 Sec. 75. Minnesota Statutes 2023 Supplement, section 103G.005, subdivision 19, is  
37.25 amended to read:

37.26 Subd. 19. **Wetlands.** (a) "Wetlands" means lands transitional between terrestrial and  
37.27 aquatic systems where the water table is usually at or near the surface or the land is covered  
37.28 by shallow water. For purposes of this definition, wetlands must have the following three  
37.29 attributes:

37.30 (1) have a predominance of hydric soils;

37.31 (2) are inundated or saturated by surface water or groundwater at a frequency and duration  
37.32 sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in  
37.33 saturated soil conditions; and

(3) under normal circumstances support a prevalence of such vegetation.

(b) For the purposes of regulation under this chapter, the term wetlands does not include public waters wetlands as defined in subdivision 15a.

(c) Notwithstanding paragraph (a), wetlands includes deepwater aquatic habitats that are not public waters or public waters wetlands. For purposes of this paragraph, "deepwater aquatic habitats" has the meaning given in *Corps of Engineers Wetlands Delineation Manual*, United States Army Corps of Engineers (January 1987).

Sec. 76. Minnesota Statutes 2022, section 103G.222, subdivision 1, is amended to read:

Subdivision 1. **Requirements.** (a) Wetlands must not be drained or filled, wholly or partially, unless replaced by actions that provide at least equal public value under a replacement plan approved as provided in section 103G.2242, a replacement plan under a local governmental unit's comprehensive wetland protection and management plan approved by the board under section 103G.2243, or, if a permit to mine is required under section 93.481, under a mining reclamation plan approved by the commissioner under the permit to mine. Project-specific wetland-replacement plans submitted as part of a project for which a permit to mine is required and approved by the commissioner on or after July 1, 1991, may include surplus wetland credits to be allocated by the commissioner to offset future mining-related wetland impacts under any permits to mine held by the permittee, the operator, the permittee's or operator's parent, an affiliated subsidiary, or an assignee pursuant to an assignment under section 93.481, subdivision 5. For project-specific wetland replacement completed prior to wetland impacts authorized or conducted under a permit to mine within the Great Lakes and Rainy River watershed basins, those basins ~~shall be~~ are considered a single watershed for purposes of determining wetland-replacement ratios. Mining reclamation plans ~~shall~~ must apply the same principles and standards for replacing wetlands that are applicable to mitigation plans approved as provided in section 103G.2242. The commissioner must provide notice of an application for wetland replacement under a permit to mine to the county in which the impact is proposed and the county in which a mitigation site is proposed. Public value must be determined in accordance with section 103B.3355 or a comprehensive wetland protection and management plan established under section 103G.2243. Sections 103G.221 to 103G.2372 also apply to excavation in permanently and semipermanently flooded areas of ~~types 3, 4, and 5~~ wetlands.

(b) Replacement must be guided by the following principles in descending order of priority:

(1) avoiding the direct or indirect impact of the activity that may destroy or diminish the wetland;

(2) minimizing the impact by limiting the degree or magnitude of the wetland activity and its implementation;

(3) rectifying the impact by repairing, rehabilitating, or restoring the affected wetland environment;

(4) reducing or eliminating the impact over time by preservation and maintenance operations during the life of the activity;

(5) compensating for the impact by restoring a wetland; and

(6) compensating for the impact by replacing or providing substitute wetland resources or environments.

For a project involving the draining or filling of wetlands in an amount not exceeding 10,000 square feet more than the applicable amount in section 103G.2241, subdivision 9, paragraph (a), the local government unit may make an on-site sequencing determination without a written alternatives analysis from the applicant.

(c) If a wetland is located in a cultivated field, then replacement must be accomplished through restoration only without regard to the priority order in paragraph (b), provided that the altered wetland is not converted to a nonagricultural use for at least ten years.

(d) If a wetland is replaced under paragraph (c), or drained under section 103G.2241, ~~subdivision 2, paragraph (b) or (c)~~, subdivision 1, clause (1), the local government unit may require a deed restriction that prohibits nonagricultural use for at least ten years. The local government unit may require the deed restriction if it determines the wetland area drained is at risk of conversion to a nonagricultural use within ten years based on the zoning classification, proximity to a municipality or full service road, or other criteria as determined by the local government unit.

(e) Restoration and replacement of wetlands must be accomplished in accordance with the ecology of the landscape area affected and ponds that are created primarily to fulfill stormwater management, and water quality treatment requirements may not be used to satisfy replacement requirements under this chapter unless the design includes pretreatment of runoff and the pond is functioning as a wetland.

(f) Except as provided in paragraph (g), for a wetland or public waters wetland located on nonagricultural land, replacement must be in the ratio of two acres of replaced wetland for each acre of drained or filled wetland.

(g) For a wetland or public waters wetland located on agricultural land or in a greater than 80 percent area, replacement must be in the ratio of one acre of replaced wetland for each acre of drained or filled wetland.

(h) Wetlands that are restored or created as a result of an approved replacement plan are subject to the provisions of this section for any subsequent drainage or filling.

(i) Except in a greater than 80 percent area, only wetlands that have been restored from previously drained or filled wetlands, wetlands created by excavation in nonwetlands, wetlands created by dikes or dams along public or private drainage ditches, or wetlands created by dikes or dams associated with the restoration of previously drained or filled wetlands may be used for wetland replacement according to rules adopted under section 103G.2242, subdivision 1. Modification or conversion of nondegraded naturally occurring wetlands from one type to another are not eligible for wetland replacement.

(j) The Technical Evaluation Panel established under section 103G.2242, subdivision 2, shall ensure that sufficient time has occurred for the wetland to develop wetland characteristics of soils, vegetation, and hydrology before recommending that the wetland be deposited in the statewide wetland bank. If the Technical Evaluation Panel has reason to believe that the wetland characteristics may change substantially, the panel shall postpone its recommendation until the wetland has stabilized.

(k) This section and sections 103G.223 to 103G.2242, 103G.2364, and 103G.2365 apply to the state and its departments and agencies.

(l) For projects involving draining or filling of wetlands associated with a new public transportation project, and for projects expanded solely for additional traffic capacity, public transportation authorities may purchase credits from the board at the cost to the board to establish credits. Proceeds from the sale of credits provided under this paragraph are appropriated to the board for the purposes of this paragraph. For the purposes of this paragraph, "transportation project" does not include an airport project.

(m) A replacement plan for wetlands is not required for individual projects that result in the filling or draining of wetlands for the repair, rehabilitation, reconstruction, or replacement of a currently serviceable existing state, city, county, or town public road necessary, as determined by the public transportation authority, to meet state or federal design or safety standards or requirements, excluding new roads or roads expanded solely for additional traffic capacity lanes. This paragraph only applies to authorities for public transportation projects that:



41.1 (1) minimize the amount of wetland filling or draining associated with the project and  
41.2 consider mitigating important site-specific wetland functions on site;

41.3 (2) except as provided in clause (3), submit project-specific reports to the board, the  
41.4 Technical Evaluation Panel, the commissioner of natural resources, and members of the  
41.5 public requesting a copy at least 30 days prior to construction that indicate the location,  
41.6 amount, and type of wetlands to be filled or drained by the project or, alternatively, convene  
41.7 an annual meeting of the parties required to receive notice to review projects to be  
41.8 commenced during the upcoming year; and

41.9 (3) for minor and emergency maintenance work impacting less than 10,000 square feet,  
41.10 submit project-specific reports, within 30 days of commencing the activity, to the board  
41.11 that indicate the location, amount, and type of wetlands that have been filled or drained.

41.12 Those required to receive notice of public transportation projects may appeal  
41.13 minimization, delineation, and on-site mitigation decisions made by the public transportation  
41.14 authority to the board according to the provisions of section 103G.2242, subdivision 9. The  
41.15 Technical Evaluation Panel ~~shall~~ must review minimization and delineation decisions made  
41.16 by the public transportation authority and provide recommendations regarding on-site  
41.17 mitigation if requested to do so by the local government unit, a contiguous landowner, or  
41.18 a member of the Technical Evaluation Panel.

41.19 Except for ~~state~~ public transportation projects that occur on state roads, for which the  
41.20 state Department of Transportation is responsible for the wetland replacement, the board  
41.21 must replace the wetlands, and wetland areas of public waters if authorized by the  
41.22 commissioner or a delegated authority, drained or filled by public transportation projects  
41.23 on existing roads.

41.24 Public transportation authorities at their discretion may deviate from federal and state  
41.25 design standards on existing road projects when practical and reasonable to avoid wetland  
41.26 filling or draining, provided that public safety is not unreasonably compromised. The local  
41.27 road authority and its officers and employees are exempt from liability for any tort claim  
41.28 for injury to persons or property arising from travel on the highway and related to the  
41.29 deviation from the design standards for construction or reconstruction under this paragraph.  
41.30 This paragraph does not preclude an action for damages arising from negligence in  
41.31 construction or maintenance on a highway.

41.32 (n) If a landowner seeks approval of a replacement plan after the proposed project has  
41.33 already affected the wetland, the local government unit may require the landowner to replace  
41.34 the affected wetland at a ratio not to exceed twice the replacement ratio otherwise required.

(o) A local government unit may request the board to reclassify a county or watershed on the basis of its percentage of presettlement wetlands remaining. After receipt of satisfactory documentation from the local government, the board shall change the classification of a county or watershed. If requested by the local government unit, the board must assist in developing the documentation. Within 30 days of its action to approve a change of wetland classifications, the board shall publish a notice of the change in the Environmental Quality Board Monitor.

(p) One hundred citizens who reside within the jurisdiction of the local government unit may request the local government unit to reclassify a county or watershed on the basis of its percentage of presettlement wetlands remaining. In support of their petition, the citizens shall provide satisfactory documentation to the local government unit. The local government unit shall consider the petition and forward the request to the board under paragraph (o) or provide a reason why the petition is denied.

Sec. 77. Minnesota Statutes 2022, section 103G.2241, subdivision 1, is amended to read:

Subdivision 1. **Agricultural activities.** A replacement plan for wetlands is not required for:

~~(1) activities in a wetland that was planted with annually seeded crops, was in a crop rotation seeding of pasture grass or legumes, or was required to be set aside to receive price support or other payments under United States Code, title 7, sections 1421 to 1469, in six of the last ten years prior to January 1, 1991;~~

~~(2) activities in a type 1 wetland on agricultural pasture land that remains in the same use, except for bottomland hardwood type 1 wetlands, and activities in a type 2 or type 6 wetland that is less than two acres in size and located on agricultural pasture land that remains in the same use;~~

(1) impacts to wetlands on agricultural land labeled prior-converted cropland and impacts to wetlands resulting from drainage maintenance activities authorized by the United States Department of Agriculture, Natural Resources Conservation Service, on areas labeled farmed wetland, farmed-wetland pasture, and wetland. The prior-converted cropland, farmed wetland, farmed-wetland pasture, or wetland must be labeled on a valid final certified wetland determination issued by the Natural Resources Conservation Service in accordance with Code of Federal Regulations, part 7, section 12, as amended. It is the responsibility of the owner or operator of the land to provide a copy of the final certified wetland determination to, and allow the Natural Resources Conservation Service to share related information with, the local government unit and the board for purposes of verification.

~~(3)~~ (2) activities in a wetland conducted as part of normal farming practices. For purposes of this clause, "normal farming practices" means farming, silvicultural, grazing, and ranching activities such as plowing, seeding, cultivating, and harvesting for the production of feed, food, and fiber products, but does not include activities that result in the draining of wetlands;

~~(4)~~ (3) soil and water conservation practices approved by the soil and water conservation district, after review by the Technical Evaluation Panel;

~~(5)~~ (4) wetland impacts resulting from aquaculture activities, including pond excavation and construction and maintenance of associated access roads and dikes, authorized under, and conducted in accordance with, a permit issued by the United States Army Corps of Engineers under section 404 of the federal Clean Water Act, United States Code, title 33, section 1344, but not including construction or expansion of buildings;

~~(6)~~ (5) wetland impacts resulting from wild rice production activities, including necessary diking and other activities, authorized under and conducted in accordance with a permit issued by the United States Army Corps of Engineers under section 404 of the federal Clean Water Act, United States Code, title 33, section 1344; or

~~(7)~~ (6) agricultural activities on agricultural land that is subject to the swampbuster provisions of the federal farm program restrictions consistent with a memorandum of understanding and related agreements between the board and the United States Department of Agriculture, Natural Resources Conservation Service.

Sec. 78. Minnesota Statutes 2022, section 103G.2241, subdivision 2, is amended to read:

Subd. 2. **Drainage.** ~~(a) For the purposes of this subdivision, "public drainage system" means a drainage system as defined in section 103E.005, subdivision 12, and any ditch or tile lawfully connected to the drainage system.~~

~~(b) A replacement plan is not required for draining of type 1 wetlands, or up to five acres of type 2 or 6 wetlands, in an unincorporated area on land that has been assessed drainage benefits for a public drainage system, provided that:~~

~~(1) during the 20-year period that ended January 1, 1992:~~

~~(i) there was an expenditure made from the drainage system account for the public drainage system;~~

~~(ii) the public drainage system was repaired or maintained as approved by the drainage authority; or~~

~~(iii) no repair or maintenance of the public drainage system was required under section 103E.705, subdivision 1, as determined by the public drainage authority; and~~

~~(2) the wetlands are not drained for conversion to:~~

~~(i) platted lots;~~

~~(ii) planned unit, commercial, or industrial developments; or~~

~~(iii) any development with more than one residential unit per 40 acres, except for parcels subject to local zoning standards that allow for family members to establish an additional residence on the same 40 acres.~~

~~If wetlands drained under this paragraph are converted to uses prohibited under clause (2) during the ten-year period following drainage, the wetlands must be replaced under section 103G.222.~~

~~(c) A replacement plan is not required for draining or filling of wetlands, except for draining types 3, 4, and 5 wetlands that have been in existence for more than 25 years, resulting from maintenance and repair of existing public drainage systems.~~

~~(d) (a) A replacement plan is not required for draining or filling of wetlands, except for draining wetlands that have been in existence for more than 25 years, resulting from maintenance and repair of existing drainage systems other than, including public drainage systems.~~

~~(e) A replacement plan is not required for draining agricultural land that:~~

~~(1) was planted with annually seeded crops before July 5, except for crops that are normally planted after that date, in eight out of the ten most recent years prior to the impact;~~

~~(2) was in a crop rotation seeding of pasture grass, cover crop, or legumes, or was fallow for a crop production purpose, in eight out of the ten most recent years prior to the impact; or~~

~~(3) was enrolled in a state or federal land conservation program and met the requirements of clause (1) or (2) before enrollment.~~

~~(f) The (b) A public drainage authority may, as part of the repair of a public drainage system, as defined in section 103E.005, subdivision 12, install control structures, realign the ditch, construct dikes along the ditch, or make other modifications as necessary to prevent the drainage of the wetland wetlands.~~

~~(g) Wetlands of all types that would be drained as a part of a public drainage repair project are eligible for the permanent wetlands preserve under section 103F.516. The board~~

~~shall give priority to acquisition of easements on types 3, 4, and 5 wetlands that have been in existence for more than 25 years on public drainage systems and other wetlands that have the greatest risk of drainage from a public drainage repair project.~~

Sec. 79. Minnesota Statutes 2022, section 103G.2241, subdivision 6, is amended to read:

Subd. 6. **Utilities; public works.** (a) A replacement plan for wetlands is not required for wetland impacts resulting from:

(1) new placement or maintenance, repair, enhancement, realignment, or replacement of existing utility or utility-type service, including pipelines, ~~if:~~ when wetland impacts are authorized under and conducted in accordance with a permit issued by the United States Army Corps of Engineers under section 404 of the federal Clean Water Act, United States Code, title 33, section 1344;

~~(i) the direct and indirect impacts of the proposed project have been avoided and minimized to the extent possible; and~~

~~(ii) the proposed project significantly modifies or alters less than one-half acre of wetlands;~~

(2) activities associated with operation, routine maintenance, or emergency repair of existing utilities and public work structures, including pipelines, provided the activities do not result in additional wetland intrusion or additional draining or filling of a wetland either wholly or partially; or

(3) repair and updating of existing subsurface sewage treatment systems necessary to comply with local, state, and federal regulations.

(b) ~~For maintenance, repair, and replacement, the local government unit may issue a seasonal or annual exemption certification or the utility may proceed without local government unit certification if the utility is carrying out the work according to approved best management practices.~~ Work of an emergency nature may proceed as necessary, and any drain or fill activities ~~shall~~ must be addressed with the local government unit after the emergency work has been completed.

Sec. 80. Minnesota Statutes 2022, section 103G.2241, subdivision 9, is amended to read:

Subd. 9. **De minimis.** (a) Except as provided in paragraphs (d), (e), (f), (g), (h), and (i), a replacement plan for wetlands is not required for draining or filling impacts to the following amounts of wetlands, excluding the permanently and semipermanently flooded areas of wetlands, as part of a project outside of the shoreland wetland protection zone:

(1) ~~10,000 square feet of type 1, 2, 6, or 7 wetland, excluding white cedar and tamarack wetlands, one-quarter acre of wetland~~ in a greater than 80 percent area;

(2) ~~5,000 square feet of type 1, 2, 6, or 7 wetland, excluding white cedar and tamarack wetlands, one-tenth acre of wetland~~ in a 50 to 80 percent area, ~~except within the 11-county metropolitan area; or~~

(3) ~~2,000 square feet of type 1, 2, 6, or 7 wetland, excluding white cedar and tamarack wetlands, one-twentieth acre of wetland~~ in a less than 50 percent area, ~~except within the 11-county metropolitan area; or.~~

~~(4) 100 square feet of type 3, 4, 5, or 8 wetland or white cedar and tamarack wetland.~~

(b) Except as provided in paragraphs (e), (f), (g), (h), and (i), a replacement plan for wetlands is not required for ~~draining or filling the following amounts of up to 400 square feet of impacts to~~ wetlands as part of a project within the shoreland wetland protection zone beyond the shoreland building setback zone.

~~(1) 400 square feet of type 1, 2, 6, or 7 wetland; or~~

~~(2) 100 square feet of type 3, 4, 5, or 8 wetland or white cedar and tamarack wetland.~~

~~In a greater than 80 percent area, the de minimis amount allowed under clause (1) may be increased up to 1,000 square feet if the wetland is isolated and is determined to have no direct surficial connection to the public water or if permanent water runoff retention or infiltration measures are established in proximity as approved by the shoreland management authority.~~

(c) Except as provided in paragraphs (e), (f), (g), (h), and (i), a replacement plan for wetlands is not required for ~~draining or filling~~ up to 20 square feet of ~~wetland~~ impacts to wetlands as part of a project within the shoreland building setback zone, as defined in the local shoreland management ordinance. The amount in this paragraph may be increased to 100 square feet if permanent water runoff retention or infiltration measures are established in proximity as approved by the shoreland management authority.

(d) Except as provided in paragraphs ~~(b)~~, (c), (e), (f), (g), (h), and (i), a replacement plan is not required for ~~draining or filling amounts up to 400 square feet of impacts to the~~ permanently and semipermanently flooded areas of wetlands as part of a project.

~~(1) 2,500 square feet of type 1, 2, 6, or 7 wetland, excluding white cedar and tamarack wetlands, outside of the shoreland wetland protection zone in a 50 to 80 percent area within the 11-county metropolitan area; or~~

~~(2) 1,000 square feet of type 1, 2, or 6 wetland, outside of the shoreland wetland protection zone in a less than 50 percent area within the 11-county metropolitan area.~~

~~For purposes of this subdivision, the 11-county metropolitan area consists of the counties of Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, Sherburne, Washington, and Wright.~~

(e) The amounts listed in paragraphs (a), (b), ~~and (c)~~, and (d) may not be combined on a project.

~~(f) This exemption no longer applies to a landowner's portion of a wetland when the cumulative area drained or filled of the landowner's portion since January 1, 1992, is the greatest of:~~

~~(1) the applicable area listed in paragraph (a), (b), or (c), if the landowner owns the entire wetland;~~

~~(2) five percent of the landowner's portion of the wetland; or~~

~~(3) 400 square feet.~~

(f) When the total area of impacts to wetlands as part of a project exceeds the applicable amount in this subdivision, a replacement plan is required for the entire amount.

(g) This exemption may not be combined with another exemption in this section on a project.

(h) Property may not be divided to increase the amounts listed in paragraph (a), (b), (c), or (d).

(i) If a local ordinance or similar local control is more restrictive than this subdivision, the local standard applies.

Sec. 81. Minnesota Statutes 2022, section 103G.2242, subdivision 2, is amended to read:

Subd. 2. **Evaluation.** (a) Questions concerning the public value, location, size, or type of a wetland ~~shall~~ must be submitted to and determined by a Technical Evaluation Panel after an on-site inspection. The Technical Evaluation Panel ~~shall~~ must be composed of a technical professional employee of the board, a technical professional employee of the local soil and water conservation district or districts, a technical professional with expertise in water resources management appointed by the local government unit, and a technical professional employee of the Department of Natural Resources for projects affecting public waters or wetlands adjacent to public waters.

(b) For wetland boundary determinations, the panel ~~shall~~ must use the "United States Army Corps of Engineers Wetland Delineation Manual", United States Army Corps of Engineers (January 1987), including updates, supplementary guidance, and replacements, if any, ". For wetland type determinations, the panel must also use Wetlands of the United States" (, United States Fish and Wildlife Service Circular 39, (1971 edition), ~~and~~ "; Classification of Wetlands and Deepwater Habitats of the United States, United States Fish and Wildlife Service (August 2013 edition); or A Hydrogeomorphic Classification for Wetlands, United States Army Corps of Engineers (August 1993), according to rules authorized under this part Classification of Wetlands and Deepwater Habitats of the United States" (1979 edition) and including updates, supplementary guidance, and replacements, if any, for any of these publications.

(c) The panel ~~shall~~ must provide the wetland determination and recommendations on other technical matters to the local government unit that must approve a replacement plan, sequencing, exemption determination, no-loss determination, or wetland boundary or type determination and may recommend approval or denial of the plan. The authority must consider and include the decision of the Technical Evaluation Panel in their approval or denial of a plan or determination.

~~(b)~~ (d) A member of the Technical Evaluation Panel that has a financial interest in a wetland bank or management responsibility to sell or make recommendations in their official capacity to sell credits from a publicly owned wetland bank must disclose that interest, in writing, to the Technical Evaluation Panel and the local government unit.

~~(e)~~ (e) Persons conducting wetland or public waters boundary delineations or type determinations are exempt from the requirements of chapter 326. The board may develop a professional wetland delineator certification program.

~~(d)~~ (f) The board must establish an interagency team to assist in identifying and evaluating potential wetland replacement sites. The team must consist of members of the Technical Evaluation Panel and representatives from the Department of Natural Resources; the Pollution Control Agency; the United States Army Corps of Engineers, St. Paul district; and other organizations as determined by the board.

Sec. 82. Minnesota Statutes 2022, section 103G.2242, subdivision 2a, is amended to read:

Subd. 2a. **Wetland boundary or type determination.** (a) A landowner may apply for a wetland boundary or type determination from the local government unit. The landowner applying for the determination is responsible for submitting proof necessary to make the determination, including, but not limited to, wetland delineation field data, observation well



data, topographic mapping, survey mapping, and information regarding soils, vegetation, hydrology, and groundwater both within and outside of the proposed wetland boundary.

(b) A local government unit that receives an application under paragraph (a) may seek the advice of the Technical Evaluation Panel as described in subdivision 2; and, if necessary, expand the Technical Evaluation Panel. The local government unit may delegate the decision authority for wetland boundary or type determinations to designated staff; or establish other procedures it considers appropriate.

(c) The local government unit decision must be made in compliance with section 15.99. Within ten calendar days of the decision, the local government unit decision must be mailed or sent by electronic transmission to the landowner, members of the Technical Evaluation Panel, the watershed district or watershed management organization, if one exists, and individual members of the public who request a copy. Notwithstanding section 15.99, subdivision 2, the board must establish by rule timelines for project review and comment for wetland banking projects.

(d) The local government unit decision is valid for five years unless the Technical Evaluation Panel determines that natural or artificial changes to the hydrology, vegetation, or soils of the area have been sufficient to alter the wetland boundary or type.

Sec. 83. Minnesota Statutes 2022, section 103G.2242, subdivision 3, is amended to read:

Subd. 3. **Replacement completion.** (a) Replacement of wetland values must be completed prior to or concurrent with the actual draining or filling of a wetland, unless:

(1) an irrevocable bank letter of credit or other financial assurance acceptable to the local government unit or the board is given to the local government unit or the board to guarantee the successful completion of the replacement; or

(2) the replacement is approved under an in-lieu fee program according to rules adopted under subdivision 1. In the case of an in-lieu fee program established by a board-approved sponsor, the board may require that a financial assurance in an amount and method acceptable to the board be given to the board to ensure the approved sponsor fulfills the sponsor's obligation to complete the required wetland replacement.

(b) The board may establish, sponsor, or administer a wetland banking program, which may include provisions allowing monetary payment to the wetland banking program for impacts to wetlands. The board may acquire land in fee title, purchase or accept easements, enter into agreements, and purchase existing wetland replacement credits to facilitate the wetland banking program. The board may establish wetland credit and in-lieu fee payment

50.1 amounts and hold money in an account in the special revenue fund, which is appropriated  
50.2 to the board to be used solely for establishing replacement wetlands and administering the  
50.3 wetland banking program.

50.4 (c) The board shall coordinate the establishment and operation of a wetland bank with  
50.5 the United States Army Corps of Engineers, the Natural Resources Conservation Service  
50.6 of the United States Department of Agriculture, and the commissioners of natural resources,  
50.7 agriculture, and the Pollution Control Agency.

50.8 Sec. 84. **REVISOR INSTRUCTION.**

50.9 (a) The revisor of statutes must renumber Minnesota Statutes, section 103F.511,  
50.10 subdivision 5a, as Minnesota Statutes, section 103F.511, subdivision 5c.

50.11 (b) The revisor of statutes shall replace references to "section 103A.206" with references  
50.12 to "section 103C.005" wherever they appear in Minnesota Statutes, chapter 103C.

50.13 Sec. 85. **REPEALER.**

50.14 (a) Minnesota Statutes 2022, sections 103A.206; 103D.315, subdivision 4; 103D.405,  
50.15 subdivisions 2, 3, 4, 5, and 6; 103D.411; 103D.601; 103D.605, subdivisions 1, 2, 3, and 4;  
50.16 103D.611; 103F.511, subdivision 8b; and 103F.950, are repealed.

50.17 (b) Minnesota Statutes 2023 Supplement, section 103D.605, subdivision 5, is repealed.

50.18 (c) Minnesota Rules, parts 8400.3000; 8400.3030; 8400.3110; 8400.3210; 8400.3260;  
50.19 8400.3300; 8400.3400; 8400.3460; 8400.3600; 8400.3610; 8400.3630; 8400.3700;  
50.20 8400.3730; 8400.3800; 8400.3830; and 8400.3930, are repealed.

### **103A.206 SOIL AND WATER CONSERVATION POLICY.**

Maintaining and enhancing the quality of soil and water for the environmental and economic benefits they produce, preventing degradation, and restoring degraded soil and water resources of this state contribute greatly to the health, safety, economic well-being, and general welfare of this state and its citizens. Land occupiers have the responsibility to implement practices that conserve the soil and water resources of the state. Soil and water conservation measures implemented on private lands in this state provide benefits to the general public by reducing erosion, sedimentation, siltation, water pollution, and damages caused by floods. The soil and water conservation policy of the state is to encourage land occupiers to conserve soil, water, and the natural resources they support through the implementation of practices that:

- (1) control or prevent erosion, sedimentation, siltation, and related pollution in order to preserve natural resources;
- (2) ensure continued soil health, as defined under section 103C.101, subdivision 10a, and soil productivity;
- (3) protect water quality;
- (4) prevent impairment of dams and reservoirs;
- (5) reduce damages caused by floods;
- (6) preserve wildlife;
- (7) protect the tax base; and
- (8) protect public lands and waters.

### **103D.315 MANAGERS.**

Subd. 4. **Seal.** The managers must adopt a seal for the watershed district.

### **103D.405 REVISED WATERSHED MANAGEMENT PLAN.**

Subd. 2. **Required ten-year revision.** (a) After ten years and six months from the date that the board approved a watershed management plan or the last revised watershed management plan, the managers must consider the requirements under subdivision 1 and adopt a revised watershed management plan outline and send a copy of the outline to the board.

(b) By 60 days after receiving a revised watershed management plan outline, the board must review it, adopt recommendations regarding the revised watershed management plan outline, and send the recommendations to the managers.

(c) After receiving the board's recommendations regarding the revised watershed management plan outline, the managers must complete the revised watershed management plan.

Subd. 3. **Review.** The managers must send a copy of the revised watershed management plan to the board, the county board and county auditor of each county affected by the watershed district, the director, the governing body of each municipality affected by the watershed district, soil and water conservation districts affected by the watershed district, and the Metropolitan Council, if the watershed district is within the metropolitan area.

Subd. 4. **Director's and Metropolitan Council's recommendations.** The director and the Metropolitan Council, if applicable, must review and make recommendations on the revised watershed management plan. By 60 days after receiving the revised watershed management plan unless the time is extended by the board, the director and the council must send the recommendations on the revised watershed management plan to the board, and a copy of the recommendations to the managers, the county auditor of each county affected by the watershed district, the governing body of each municipality affected by the watershed district, and soil and water conservation districts affected by the watershed district.

Subd. 5. **Notice.** (a) The board must give notice and hold a revised watershed management plan hearing on the proposed revised watershed management plan by 45 days after receiving the director's and Metropolitan Council's recommendation.

(b) The board must give notice of the revised watershed management plan hearing by publication in a legal newspaper published in counties affected by the watershed district. The last publication must occur at least ten days before the revised watershed management plan hearing.

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(c) The board must give notice of the revised watershed management plan hearing by mail to the auditors of counties and to the chief executive officials of municipalities affected by the watershed district.

(d) The notice must include:

(1) a statement that a copy of the proposed revised watershed management plan has been filed with the board, the Metropolitan Council, where applicable, the auditors of counties affected by the proposed watershed district, the commissioner, the director, the governing body of each municipality affected by the watershed district, and the soil and water conservation districts affected by the watershed district;

(2) a general description of the purpose of the watershed district;

(3) a general description of the property included in the watershed district;

(4) a general description of the proposed revised watershed management plan;

(5) the date, time, and location of the hearing; and

(6) a statement that all persons affected or interested in the watershed district may attend and give statements at the revised watershed management plan hearing.

Subd. 6. **Board order.** After the revised watershed management plan hearing, the board must prescribe a revised watershed management plan for the watershed district. The board must send a copy of the order and approved revised watershed management plan to the managers, the county board of each county affected by the watershed district, the commissioner, the director, the Metropolitan Council, where applicable, and soil and water conservation districts affected by the watershed district. The revised watershed management plan approved by the board is the revised watershed management plan for the watershed district.

**103D.411 AMENDMENT OF WATERSHED MANAGEMENT PLAN AND REVISED WATERSHED MANAGEMENT PLAN.**

The managers may initiate an amendment of a watershed management plan or revised watershed management plan by submitting a petition with the proposed amendment to the board. The board must give notice and hold a hearing on the amendment in the same manner as for the watershed management plan. After the hearing, the board may, by order, approve or prescribe changes in the amendment. The amendment becomes part of the watershed management plan after approval by the board. The board must send the order and approved amendment to the entities that receive an approved watershed management plan under section 103D.401, subdivision 5.

**103D.601 PROJECT INITIATED BY MANAGERS.**

Subdivision 1. **Requirements.** (a) The managers may initiate a project by resolution of at least a majority of the managers if:

(1) the project is financed by grants totaling at least 50 percent of the estimated project cost; and

(2) the engineer's estimate of costs to parties affected by the watershed district, including assessments against benefited properties but excluding state, federal, or other grants, is not more than \$750,000 for the project.

(b) A resolution under this subdivision may not be used to establish a project that has drainage as its essential nature and purpose.

Subd. 2. **Preliminary resolution hearing notice.** (a) The managers must set the time and location for a preliminary resolution hearing on the proposed resolution for the project.

(b) The managers must give notice of the preliminary resolution hearing by publication in a legal newspaper published in the counties affected by the watershed district. The last publication must occur at least ten days before the preliminary resolution hearing.

(c) The preliminary resolution hearing notice must contain:

(1) the date, time, and place of hearing;

(2) the substance of the proposed project resolution;

(3) the means of financing the project; and

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(4) a statement that all persons who might be affected by the proposed project or who may be interested in the proposed project may appear and be heard.

(d) Defects in the notice do not invalidate the proceedings.

Subd. 3. **Preliminary report and information.** (a) The managers must have the watershed district engineer or another competent person prepare a preliminary report advising the managers whether the proposed project is feasible and estimating the cost of the project. An error or omission in the preliminary report does not invalidate the proceeding.

(b) The managers may have other helpful information prepared that will aid in determining the desirability and feasibility of the project.

Subd. 4. **Unfavorable preliminary report.** If the preliminary report is unfavorable, the managers must set a time and location for a hearing in the manner provided for the preliminary resolution. After the hearing, the project may be referred back to the watershed district engineer or another competent person for further study and report, or the managers may dismiss the proceeding.

Subd. 5. **Final resolution.** If, after the hearing, the managers determine that the proposed project promotes the public interest and welfare and is practicable and in conformity with the watershed management plan of the watershed district, the managers must adopt a final resolution approving the project and identify the proceeding by name and number.

Subd. 6. **Further procedure.** (a) When a final resolution is adopted, the proceeding must continue as provided for a project initiated by a petition.

(b) After the managers file a statement listing the property benefited, damaged, or otherwise affected by a project with the auditors of counties affected by the project, the proceedings for the project must continue under section 103D.901.

**103D.605 PROJECT CONSTRUCTED WITH GOVERNMENT AID OR AS PART OF PLAN.**

Subdivision 1. **Required procedure.** The procedure in this section must be followed if:

(1) a project is to be constructed within the watershed district under an agreement between the managers and the state or federal government and the cost of the project is to be paid for in whole or in part by the state or federal government, but the rights-of-way and the cost of the project are assumed by the watershed district; or

(2) the managers are undertaking all or a portion of the basic water management project as identified in the watershed management plan.

Subd. 2. **Board and director reports.** A copy of the project plan must be transmitted to the board and the director. The board and the director must review the project plan and prepare reports on the project. The reports must be transmitted to the managers.

Subd. 3. **Project hearing notice.** (a) After receiving the board's and the director's reports, the managers must set a time and location for a hearing on the proposed project.

(b) The project hearing notice must state:

(1) the time and location of the project hearing;

(2) the general nature of the proposed project;

(3) the estimated cost of the proposed project; and

(4) the method by which the cost of the proposed project is to be paid, including the cost to be allocated to each affected municipality or the state government.

(c) The managers must give notice by publication before the date of the hearing in a legal newspaper, published in the counties where property is to be improved by the proposed project. The last publication must occur between 30 days and ten days before the project hearing.

(d) At least ten days before the project hearing, notice by mail must be given to the director and the municipalities entirely or partly within the project area.

(e) Failure to give mailed notice or defects in the notice do not invalidate the proceedings.

Subd. 4. **Project hearing.** At the project hearing, the managers must hear all parties interested in the proposed project.

Subd. 5. **Establishment order.** After the project hearing, if the managers find that the project will be conducive to public health, will promote the general welfare, and complies with the watershed management plan and the provisions of this chapter, the managers must, by order, establish the project. The establishment order must include the findings of the managers.

#### **103D.611 CONSTRUCTION BY GOVERNMENT AGENCIES.**

Subdivision 1. **Project plan to director and board.** If a project is to be constructed within the watershed district under a contract between the watershed district and the state or the federal government, and the cost of construction or implementation is to be paid by the governmental agency but the rights-of-way, legal, and general expenses of the improvement are to be paid by the watershed district, the managers shall forward a copy of the project plan to the board and the director. The director shall prepare a director's advisory report and the board shall prepare a board's advisory report.

Subd. 2. **Hearing notice.** (a) The managers shall hold a public hearing on the proposed contract following publication of the hearing notice.

(b) The hearing notice must be published once each week for two successive weeks before the date of the hearing in a legal newspaper published in the counties where a part or all of the affected waters and lands are located. The last publication must occur at least ten days before the hearing. The notice must state the time and place of hearing, the general nature of the proposed improvement, its estimated cost, and the area proposed to be assessed.

(c) At least ten days before the hearing, notice must be mailed to each resident owner, as shown on the county auditor's most recent records maintained for taxation purposes, within the area proposed to be assessed, and to the director, and to each public body within the area to be assessed and likely to be affected. Failure to give mailed notice or defects in the notice do not invalidate the proceedings.

Subd. 3. **Hearing.** At the time and place specified in the notice, the managers shall hear all interested parties for and against the proposed project. All questions relative to the project must be determined on evidence presented at the hearing. If the managers find that the project will be conducive to public health and will promote the general welfare, and that it complies with this chapter, the managers shall make findings accordingly, authorize the project, and make the proposed contract or other arrangement.

Subd. 4. **Appraisal.** (a) After authorizing the project, the managers shall appoint three disinterested resident owners of the state to act as appraisers.

(b) After the appraisers sign an oath to faithfully and impartially perform their duties, they shall, with or without the engineer, determine the benefits and damages to property affected by the proposed project. The appraisers shall make a detailed statement and file the statement with the managers showing:

(1) the actual damages that have resulted or will result to individuals, property, or corporations from the construction or implementation of the project; and

(2) a list of property, including highways and corporations, receiving actual benefits by way of drainage, control of floodwaters, or other means authorized in this chapter.

Subd. 5. **Hearing on appraisers' report.** (a) After the appraisers' report and the plans and engineering data prepared by the governmental agency are filed with the managers, the managers shall prepare a detailed statement of all costs, including damages, to be incurred by the watershed district in construction or implementation of the project.

(b) The managers shall order a time and place within the watershed district for a hearing on the appraisers' report by 35 days after the detailed statement of costs is prepared. The managers shall give notice by publication and mailing as provided in subdivision 1 for a hearing on a petition. At the time and place specified in the notice, the managers shall hear all parties interested for and against confirming the appraisers' report.

(c) The managers may order and direct the modification of the assessment of benefits and damages, and amend or change the list of properties reported as benefited or damaged. If the amended reports include property not included in the original report, the managers shall adjourn and publish and mail in the manner for the original notice, the proper notice concerning the property not included in the previous notice.

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(d) If upon full hearing the managers find that the benefits resulting from the construction or implementation will be greater than the assessments including damages they shall confirm the appraisers' report.

(e) Persons or political subdivisions affected by the order may appeal the order under this chapter.

Subd. 6. **Assessments and levies.** Proceedings for assessments and levies may be brought under section 103D.901 after the managers file a statement with the auditor of a county that lists the property and corporations benefited or damaged or otherwise affected by a project as found by the appraisers and approved by the managers.

Subd. 7. **Exempt from normal project initiation.** Section 103D.701 relating to project initiation does not apply to projects of the watershed district constructed under contract as provided in this section.

Subd. 8. **Acquiring property.** (a) If the watershed district is required to acquire an interest in real property under this section or convey an interest in real property to the federal government, the managers shall, before the filing of the appraisers' report, record a notice of the pendency of a proceeding initiated by the managers to acquire the lands to be conveyed to the federal government. The notice of pendency must be recorded in the office of the county recorder of the affected county. The notice must state the purpose for which the lands are to be taken.

(b) By 20 days before the hearing on the appraisers' report, in addition to the notice required by subdivision 2, the notice of the hearing must be served on the owners of the property to be acquired, in the same manner as the summons in a civil action. The notice must:

- (1) describe the property;
- (2) state by whom and for what purpose the property is to be taken;
- (3) give the names of all persons appearing of record or known to the managers to be the owners;
- (4) state that appraisers have been appointed as provided by subdivision 4, to determine the benefits and damages; and
- (5) state that a hearing will be held by the managers on the appraisers' report at the time and place specified in the notice.

(c) After the managers have confirmed the appraisers' report listing the property to be benefited or damaged as provided in subdivision 5, the managers have all rights of possession and entry conferred in other cases of condemnation by chapter 117.

(d) After confirmation of the appraisers' report, the attorney for the managers shall make a certificate describing the property taken and the purpose for the taking, and reciting the fact of payment of all awards determined by the appraisers appointed by the managers or judgments in relation to the land. When approved by the managers, the certificate establishes the right of the watershed district in the property taken. The certificate must be filed for record with the county recorder of the county where the property is located. The filing constitutes notice to all parties of the title of the watershed district to the property described in the certificate.

(e) After the certificate is filed, the managers may convey the property and interests in the property acquired to the federal government, if necessary.

**103F.511 DEFINITIONS.**

Subd. 8b. **Reinvest in Minnesota reserve program.** "Reinvest in Minnesota reserve program" means the program established under section 103F.515.

**103F.950 BEAVER DAMAGE CONTROL GRANTS.**

Subdivision 1. **Establishment.** The Board of Water and Soil Resources shall establish a beaver damage control grant program to provide grants for the control of beaver activities causing damage to public waters, roads, and ditches and adjacent private property. The grants may be made to:

- (1) a joint powers board established under section 471.59 by two or more governmental units;
- (2) soil and water conservation districts; and
- (3) Indian tribal governments.

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Subd. 2. **Grant amount.** The board may provide up to 50 percent of the costs of implementing a beaver damage control program by a joint powers board.

Subd. 3. **Awarding grants.** Applications for grants must be made to the board on forms prescribed by the board. The board shall consult with town supervisors and county commissioners representing different areas of the state in developing the application form. A joint powers board seeking a grant may be required to supply information on the beaver control program it has adopted, the extent of the problem in the geographic area covered by the joint powers agreement, and the ability of the joint powers board to match the state grant. The board may prioritize the grant applications based upon the information requested as part of the grant application.

Subd. 4. **Report.** (a) Within one year after receiving a grant under this section, a joint powers board must report to the Board of Water and Soil Resources on the joint powers board's efforts to control beaver in the area.

(b) By December 15 of each even-numbered year, the board shall report to the senate and house of representatives environment and natural resources policy and finance committees on the efforts under this section to control beaver.



## **8400.3000 AUTHORITY.**

Minnesota Statutes, sections 84.95, 103A.209, and 103F.501 to 103F.531, authorize the state board, in consultation with districts, private groups, and state and federal agencies, to implement a program to acquire easements on land to retire certain marginal agricultural land and protect environmentally sensitive areas to enhance soil and water quality, minimize damage to flood-prone areas, sequester carbon, and support native plant, fish, and wildlife habitats and to reestablish perennial cover and restore wetlands on that land. Parts 8400.3000 to 8400.3930 provide procedures and criteria to be followed by the state board and district boards in implementing Minnesota Statutes, sections 103F.501 to 103F.531. The state board shall implement the reinvest in Minnesota reserve program with district boards when practical, but may also implement the program directly.

## **8400.3030 DEFINITIONS.**

Subpart 1. **Scope.** The definitions in this part apply to parts 8400.3000 to 8400.3930.

Subp. 2. **Agricultural crop production.** "Agricultural crop production" means an agricultural activity:

- A. including but not limited to tillage, planting, or harvesting operations; and
- B. devoted to the production of horticultural, row, close grown, introduced pasture, or introduced hayland crops.

Subp. 3. [Repealed, 14 SR 1928]

Subp. 3a. **Agricultural land.** "Agricultural land" means land devoted for use as pasture or hayland for domestic livestock or dairy animals, or to agricultural crop production, or to growing nursery stocks, or for use as animal feedlots, and may include contiguous land associated with these uses.

Subp. 4. **Annual plan.** "Annual plan" means a plan prepared by the district under Minnesota Statutes, section 103C.331, subdivision 11, and according to the most recent version of the Guidelines for Soil and Water Conservation District Comprehensive and Annual Plans published by the state board. That publication is subject to periodic change. The current version is available at the district office and state board office and is incorporated by reference.

Subp. 5. **Approved practice.** "Approved practice" means a soil and water conservation practice or wildlife habitat enhancement that may be established on an easement area and is described in the easement program practice specifications.

Subp. 6. [Repealed, 37 SR 1277]

Subp. 6a. [Repealed, 37 SR 1277]

Subp. 7. [Repealed, 14 SR 1928]

Subp. 8. [Repealed, 19 SR 550]

Subp. 9. **Conservation agreement.** "Conservation agreement" means a written contract stating the terms and conditions for conveying a conservation easement by the landowner to the state.

Subp. 10. **Conservation easement.** "Conservation easement" has the meaning given for "conservation easement" in Minnesota Statutes, section 84C.01, paragraph (1).

Subp. 10a. [Repealed, 37 SR 1277]

Subp. 10b. **Conservation easement program.** "Conservation easement program" refers to both the RIM reserve program, as defined in subpart 42, and the permanent wetlands preserve program, as defined in subpart 36a.

Subp. 11. **Conservation plan.** "Conservation plan" means a written description and map of the approved practices that must be applied to or that already exist on the easement area.

Subp. 11a. **Cost-shared practice.** "Cost-shared practice" means an approved practice which qualifies for cost-sharing through a conservation easement program administered by the state board.

Subp. 12. [Repealed, 19 SR 550]

Subp. 13. [Repealed, 19 SR 550]

Subp. 14. **District.** "District" means a soil and water conservation district organized under Minnesota Statutes, chapter 103C.

Subp. 15. **District board.** "District board" means the board of supervisors of a soil and water conservation district organized under Minnesota Statutes, chapter 103C.

Subp. 16. [Repealed, 19 SR 550]

Subp. 17. **District technical representative.** "District technical representative" means a district employee or other designee assigned by the district who has expertise in the design and application of approved practices.

Subp. 17a. **Drained wetland.** "Drained wetland" means a former natural wetland that has been altered by draining, dredging, filling, leveling, or other manipulation sufficient to reduce its natural function.

Subp. 17b. **Easement program practice specifications.** "Easement program practice specifications" means the detailed descriptions of the approved practices that are allowed on lands enrolled in the conservation easement programs.

Subp. 18. [Repealed, 19 SR 550]

Subp. 19. [Repealed, 37 SR 1277]

Subp. 20. [Repealed, 37 SR 1277]

Subp. 20a. [Repealed, 37 SR 1277]

Subp. 20b. **Farmed wetland.** "Farmed wetland" means a wetland, as defined in subpart 48, that has been devoted to agricultural crop production, as defined in subpart 2, since December 23, 1985.

Subp. 21. [Repealed, 19 SR 550]

Subp. 22. [Repealed, 19 SR 550]

Subp. 23. **Food plot.** "Food plot" means an area established for the purpose of providing food for wildlife.

Subp. 24. [Repealed, 37 SR 1277]

Subp. 25. [Repealed, 37 SR 1277]

Subp. 26. [Repealed, 37 SR 1277]

Subp. 27. **Individual.** "Individual" means a person or legal entity, whether or not a resident of Minnesota.

Subp. 28. [Repealed, 37 SR 1277]

Subp. 29. **Introduced hayland.** "Introduced hayland" means an area devoted to the production of forage that has been cultivated in a rotation of row crops or small grains or interseeded with introduced or native species at least twice during the ten years prior to applying for enrollment in a conservation easement program. These areas must have been harvested by mechanical methods at least two years during the five years prior to applying for enrollment in a conservation easement program.

Subp. 30. **Introduced pasture.** "Introduced pasture" means an area devoted to the production of forage that has been cultivated in a rotation of row crops or small grains or interseeded with introduced or native species at least twice during the ten years prior to applying for enrollment in a conservation easement program. These areas must have been harvested by grazing at least two years during the five years prior to applying for enrollment in a conservation easement program.

Subp. 31. **Landowner.** "Landowner" means an individual or entity that is not prohibited from owning agricultural land under Minnesota Statutes, section 500.24, and who either owns eligible land or is purchasing eligible land under a contract for deed in Minnesota.

Subp. 31a. **Land with crop history.** "Land with crop history" means land that has produced horticultural, row, or close grown crops or that has been enrolled at a cropland rate in a federal or state conservation program at least two of the five years prior to applying for enrollment in a conservation easement program, or land that meets the definition of introduced hayland in subpart 29, or land that meets the definition of introduced pasture in subpart 30. For the purposes of parts 8400.3000 to 8400.3930, land with crop history includes acres devoted to "set aside" or "conserving use" for the United States Department of Agriculture programs.

Subp. 32. [Repealed, 37 SR 1277]

Subp. 33. **Marginal agricultural land.** "Marginal agricultural land" means land that is:

A. composed of class IIIe, IVe, V, VI, VII, or VIII land as identified in the land capability classification system of the United States Department of Agriculture; or

B. similar to land described under item A and identified under a land classification system selected by the board.

Subp. 33a. **Pasture.** "Pasture" means land used for grazing by domestic livestock and land which is not considered land with crop history as defined in subpart 31a.

Subp. 33b. **Pastured hillside.** "Pastured hillside" means land on a hillside that is used for pasture as defined in subpart 33a or used for introduced pasture as defined in subpart 30.

Subp. 34. [Repealed, 19 SR 550]

Subp. 35. [Repealed, 19 SR 550]

Subp. 36. **Perennial cover.** "Perennial cover" means the water area created by restoring a drained wetland or the perennial vegetation established under a conservation easement program, or the perennial vegetation or the water or wetland areas that already exist on the easement area.

Subp. 36a. **Permanent wetlands preserve program.** "Permanent wetlands preserve program" means the program established under Minnesota Statutes, section 103F.516.

Subp. 37. [Repealed, 19 SR 550]

Subp. 38. [Repealed, 19 SR 550]

Subp. 39. [Repealed, 19 SR 550]

Subp. 39a. **Public waters.** "Public waters" means waters as defined in Minnesota Statutes, section 103G.005, subdivision 15, and inventoried under Minnesota Statutes, section 103G.201. A copy of the inventory is available in the district office.

Subp. 39b. **Public waters wetlands.** "Public waters wetlands" means wetlands as defined in Minnesota Statutes, section 103G.005, subdivision 15a.

Subp. 39c. [Repealed, 37 SR 1277]

Subp. 40. [Repealed, 37 SR 1277]

Subp. 41. [Repealed, 19 SR 550]

Subp. 42. **RIM reserve program.** "RIM reserve program" means the program established in Minnesota Statutes, section 103F.515.

Subp. 42a. **Riparian land.** "Riparian land" means land adjacent to public waters, drainage systems, wetlands, or locally designated priority waters.

Subp. 43. **Screening committee.** "Screening committee" means a group established by the district board to assist in implementing the conservation easement programs. The screening committee is chaired by a district board member and is composed of representatives of private, state, and local organizations or clubs, and local, state, and federal agencies with an interest in the conservation easement programs.

Subp. 43a. **Sensitive groundwater area.** "Sensitive groundwater area" means a geographic area defined by natural features where there is a significant risk of groundwater degradation from activities conducted at or near the land surface. These areas may be identified by mapping or other appropriate methods determined by the commissioner of natural resources and the state board. Wellhead protection areas and land that is adjacent and draining to a sinkhole may be designated as a sensitive groundwater area.

Subp. 44. [Repealed, 37 SR 1277]

Subp. 45. **Soil and water conservation practice.** "Soil and water conservation practice" means structural or vegetative practices applied to land for the purposes of controlling soil erosion, sediment, agricultural nutrients or waste, or other water pollutants.

Subp. 46. [Repealed, 37 SR 1277]

Subp. 47. [Repealed, 14 SR 1928]

Subp. 47a. **State board.** "State board" means the Board of Water and Soil Resources.

Subp. 48. **Wetland.** "Wetland" means wetlands as defined in Minnesota Statutes, section 103G.005, subdivision 19.

#### **8400.3110 DURATION OF CONSERVATION EASEMENTS.**

For purposes of the RIM reserve program, a conservation easement may be permanent or of limited duration. A conservation easement acquired on restorable drained wetlands, replacement wetlands, or land for highway windbreak purposes, must be of permanent duration. A conservation easement of limited duration may be acquired on other eligible land within a district if it is for a period not less than 20 years and only if the state board has approved enrollment of limited duration conservation easements in that district.

All permanent wetlands preserve program conservation easements must be of permanent duration.

#### **8400.3210 DELEGATION OF PROGRAM TO ANOTHER DISTRICT.**

A district board may enter into an agreement with other district boards as authorized by Minnesota Statutes, section 103C.231, to delegate to another district board the responsibility for administering any conservation easement program of the state board. Where such delegation has been mutually agreed upon, each district board must so notify all landowners in their respective district and each district must so notify the state board.

#### **8400.3260 LAND IN MORE THAN ONE DISTRICT.**

If an application involves land in more than one district, the participating districts may jointly delegate to one of the districts the responsibility for review and prioritization of that application. If that application is accepted for enrollment, the affected districts may also jointly delegate to one of the districts the responsibility for completing all of the tasks necessary for conveyance of the conservation easement to the state board.

**8400.3300 CRITERIA FOR SCREENING COMMITTEE REVIEW OF APPLICATIONS.**

The state board may direct districts to utilize a local screening process or committee to prioritize local project areas or applications. The criteria for screening committee prioritization are as follows:

- A. consistency with the purpose and policy of the respective conservation easement program;
- B. the parcel's potential impact on reducing soil erosion and sedimentation, improving water quality, reducing flooding, and enhancing fish and wildlife habitat;
- C. compatibility with established priorities of the organizations and agencies participating in the screening process; and
- D. highest priority must be given to permanent easements pursuant to Minnesota Statutes, section 103F.515, subdivision 2, paragraph (e).

**8400.3400 CONSERVATION AGREEMENT FOR EASEMENT.**

The district board shall direct its staff or the district technical representative to develop conservation agreements as prescribed by the state board and in a recordable form for all approved applications which incorporate the minimum requirements stated in Minnesota Statutes, section 103F.515, subdivisions 4 and 5. In addition, each conservation agreement must require the landowner to:

- A. pay, when due, all taxes and assessments that may be levied against the easement area;
- B. remove any existing structures as required by the district board or the state board prior to the conveyance of the conservation easement with all associated costs being the responsibility of the landowner, and not place, erect, or construct any temporary or permanent structures on the easement area;
- C. remove any existing hazardous and toxic substances or any pollutants and contaminants prior to the conveyance of the conservation easement with all associated costs being the responsibility of the landowner, and not place such substances, pollutants, or contaminants on the easement area;
- D. properly seal all abandoned wells on the easement area prior to the conveyance of the conservation easement, with all associated costs being the responsibility of the landowner; and
- E. allow the state board and its employees and agents to enter the easement area for the purposes of inspection and enforcement of the terms and conditions of the conservation easement.

**8400.3460 TITLE REQUIREMENTS.**

The landowner must have good and marketable title that is insurable under a title insurance policy. In addition, the title must not be subject to any prior liens or encumbrances determined to be objectionable by the Attorney General. Objectionable title defects, liens, or encumbrances must be promptly removed or corrected by the landowner prior to easement conveyance.

**8400.3600 RENEWAL AND EXTENSION OF CONSERVATION EASEMENTS.**

- A. When a conservation easement of limited duration expires, a new conservation agreement and conservation easement for an additional period of not less than 20 years may be acquired by agreement of the state board and the landowner under the rules in force at that time. The state board may adjust payment rates as a result of renewing a conservation

agreement and conservation easement after examining the condition of the established cover, conservation practices, and land values.

B. The easement duration may be lengthened through mutual agreement of the current landowner with the state board, in consultation with the commissioners of agriculture and natural resources, if the state board determines that the changes are consistent with the purpose of the conservation easement program. When converting limited duration easements to permanent easements, the payment is the difference between the amount that would be paid per acre for the permanent easement as established for the most recent sign-up period and the amount already paid for the limited duration easement on the area.

#### **8400.3610 ALTERATION, RELEASE, OR TERMINATION OF CONSERVATION EASEMENTS.**

The state board may alter, release, or terminate a conservation easement after consultation with the commissioners of agriculture and natural resources. The board may alter, release, or terminate an easement only if the state board determines that the public interests and general welfare are better served by the alteration, release, or termination.

The state board must be provided the following information at least 30 days prior to a state board meeting, before the state board will consider a request to alter, release, or terminate a conservation easement:

A. a copy of the letter from the landowner to the district board justifying the change and identifying how the public interest and general welfare will be better served;

B. a letter from the district board recommending either approval or disapproval of the proposed change;

C. a letter from the Department of Natural Resources recommending either approval or disapproval of the proposed change; and

D. other supporting documents, including:

- (1) an aerial photo identifying the requested change;
- (2) a soil survey map of the area;
- (3) cropping history information; and
- (4) other pertinent documentation that will support the request.

The state board reserves the right to require special provisions to ensure at least equal resource value as a condition of approving the request. The state board must be compensated by the landowner for all damages and loss of benefits to the conservation easement and the state board may also require reimbursement for administrative expenses and costs incurred in the alteration, release, or termination of a conservation easement.

#### **8400.3630 APPROVED PRACTICES.**

Subpart 1. **Criteria.** Approved practices must have as their primary purpose the control of soil erosion or sedimentation, protection or improvement of water quality, reduction of flooding, or enhancement of fish and wildlife habitat. Approved practices may be further specified in the easement program policies or practice specifications. Practices that do not qualify as approved practices include, but are not limited to, Christmas tree plantations and fruit orchards. Food plots are not eligible for conservation easement program cost-sharing, but are considered an approved practice and, therefore, are allowed on enrolled acres as specified in the easement conservation plan.

Subp. 2. **Establishment of approved practices.** A landowner is responsible for the establishment of all approved practices on the easement area in accordance with the easement program practice specifications. Establishment of approved practices must be monitored by the district board or its delegate to ensure compliance with the conservation plan and the

conservation easement. Upon establishment or partial completion of an approved practice, a district technical representative shall certify whether or not the approved practice, in whole or part, has been satisfactorily performed.

#### **8400.3700 COST-SHARED PRACTICES.**

Subpart 1. **Approved practices eligible for cost-sharing.** The state board shall determine which approved practices are eligible for conservation easement program cost-sharing, consistent with the criteria as described in part 8400.3630, subpart 1.

Subp. 2. **Eligible costs for cost-shared practices.**

A. Upon satisfactory performance under part 8400.3630, subpart 2, the landowner shall present receipts or invoices to the district board, or its delegate, of the costs incurred in the installation of the cost-shared practice. The district board shall review the receipts or invoices to determine the costs eligible for conservation easement program payment. If the district board determines that the costs requested for reimbursement are reasonable and necessary, it shall recommend payment to the landowner by submitting certification of satisfactory performance and providing documentation of reimbursable practice costs to the state board on forms provided by the state board. If the district board determines that certain costs requested for reimbursement are not eligible or reasonable, it shall notify the landowner in writing of this determination. The landowner may request reconsideration of this determination by the district board within 30 days of receipt of the determination. If additional costs are determined to be eligible and reasonable, the district board shall then recommend payment for the approved amount. The state board reserves the right to approve whether costs requested for reimbursement are eligible and reasonable.

B. Eligible costs for approved practices are limited to those prescribed by the state board as allowed in Minnesota Statutes, section 103F.515, subdivision 6.

C. The state board reserves the right to approve and provide funding for cost-shared practices.

Subp. 3. **Payment for in-kind services.** In-kind services provided by the landowner including, but not limited to, earthwork, seedbed preparation, and seeding, may be credited to the landowner's share of the total cost of establishing the cost-shared practice. The district board shall credit only those costs it determines to be practical and reasonable and may approve receipts or invoices directly or through its delegate.

Subp. 4. **Funds from other sources.** Conservation easement program cost-sharing funds may be augmented by funds from other agencies, organizations, or individuals.

#### **8400.3730 FAILURE OF APPROVED PRACTICES.**

Subpart 1. **Cost-shared practices.** A landowner is not in violation of the conservation easement if the failure, in whole or part, of a cost-shared practice was caused by reasons beyond the landowner's control such as extreme weather conditions. In these instances, the district board may recommend to the state board that conservation easement program cost-sharing funds be encumbered for reestablishment of the cost-shared practice. The encumbrance must comply with the limits prescribed by the state board. In no case may a district board authorize conservation easement program financial assistance to a landowner for the reestablishment of cost-shared practices that were removed or altered by the landowner, or that have failed due to improper maintenance during the term of the conservation easement.

Subp. 2. **All other approved practices.** A landowner is not in violation of the conservation easement if the failure of approved practices was caused by reasons beyond the landowner's control.

#### **8400.3800 OPERATION AND MAINTENANCE.**

A landowner is responsible for the operation and maintenance of approved practices designated in the conservation plan.

#### **8400.3830 VIOLATIONS AND ENFORCEMENT.**

Subpart 1. **District board action.** The district board may take such measures as are necessary to ensure landowner compliance with the conservation agreement, conservation easement, and conservation plan. If the district board is unsuccessful at obtaining landowner compliance, the district board shall notify the state board of the violation and may recommend appropriate measures to be taken to correct violations.

Subp. 2. **State board action.** Upon notification or discovery of a violation of a conservation agreement, conservation easement, or conservation plan, the state board shall take action to resolve the violation.

A landowner who violates the terms of a conservation agreement, conservation easement, or conservation plan under this chapter, or induces, assists, or allows another to do so, is liable to the state for treble damages if the violation is willful or double damages if the violation is not willful. The amount of damages is the amount needed to make the state whole or the amount the landowner has gained due to the violation, whichever is greater.

If the state board is not successful in resolving the violation, it may request the state attorney general to commence legal action to enforce the conservation agreement, conservation easement, or conservation plan.

Subp. 3. **Attorney general action.** Upon request by the state board, the attorney general may commence an action for specific performances, injunctive relief, damages, including attorney fees, and any other appropriate relief to enforce Minnesota Statutes, sections 103F.501 to 103F.531 in district court in the county where all or part of the violation is alleged to have been committed, or where the landowner resides or has a principal place of business.

Conservation easements remain in effect even if maintenance violations have occurred.

#### **8400.3930 RECONSIDERATION AND APPEAL.**

Subpart 1. **Reconsideration by district board.** An affected landowner may request the district board to reconsider its:

A. recommendation or determination regarding that landowner's application for enrollment in a conservation easement program;

B. recommendation or determination to cancel that landowner's conservation agreement;

C. determination regarding that landowner's eligible and allowable costs to be reimbursed by the state board;

D. request to that landowner to correct any alleged noncompliant conditions regarding that landowner's enrolled easement area; or

E. recommendation to disapprove that landowner's request to change an enrolled easement area.

Subp. 2. **Time for reconsideration by district board.** A landowner requesting reconsideration under subpart 1 shall mail a written request to the district board within 15 days of receipt of notice of the district board's determination or recommendation of the matters specified in subpart 1. The request for reconsideration shall include the specific reasons for the request and evidence to support the landowner's claims. The district board shall notify the landowner in writing of its final recommendation and the reasons for the recommendation within 60 days of receipt of the landowner's request for reconsideration.



APPENDIX  
Repealed Minnesota Rules: S3559-1

Subp. 3. **Appeal to state board.** An affected landowner may appeal to the state board from a final recommendation made by the district board pursuant to subpart 2. The landowner shall mail a written appeal to the state board within 15 days after receipt of the district board's final recommendation. The appeal shall include the specific reasons for the request and evidence to support the landowner's claims. The state board shall notify in writing the landowner and the district board of its final decision and the reasons for the decision within 60 days of receipt of the landowner's appeal.

Subp. 4. [Repealed, 14 SR 1928]