

This Document can be made available in alternative formats upon request

State of Minnesota  
HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH SESSION

H. F. No. **2434**

02/22/2012 Authored by Nornes and Murdock

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

1.1 A bill for an act  
1.2 relating to natural resources; setting standards for diversion or sale of water;  
1.3 amending Minnesota Statutes 2010, sections 103G.261; 103G.265, subdivision  
1.4 2, by adding a subdivision.

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

1.6 Section 1. Minnesota Statutes 2010, section 103G.261, is amended to read:

1.7 **103G.261 WATER ALLOCATION PRIORITIES.**

1.8 (a) The commissioner shall adopt rules for allocation of waters based on the  
1.9 following priorities for the consumptive appropriation and use of water:

1.10 (1) first priority, domestic water supply, excluding industrial and commercial uses of  
1.11 municipal water supply, and use for power production that meets the contingency planning  
1.12 provisions of section 103G.285, subdivision 6;

1.13 (2) second priority, a use of water that involves consumption of less than 10,000  
1.14 gallons of water per day;

1.15 (3) third priority, agricultural irrigation, and processing of agricultural products  
1.16 involving consumption in excess of 10,000 gallons per day;

1.17 (4) fourth priority, power production in excess of the use provided for in the  
1.18 contingency plan developed under section 103G.285, subdivision 6;

1.19 (5) fifth priority, uses, other than agricultural irrigation, processing of agricultural  
1.20 products, and power production, involving consumption in excess of 10,000 gallons per  
1.21 day; and

1.22 (6) sixth priority, nonessential uses.

1.23 (b) For the purposes of this section, "consumption" means water withdrawn from a  
1.24 supply that is lost for immediate further use in the area.

2.1 (c) Appropriation and use of surface water from streams during periods of flood  
 2.2 flows and high water levels must be encouraged subject to consideration of the purposes  
 2.3 for use, quantities to be used, and the number of persons appropriating water.

2.4 (d) Appropriation and use of surface water from lakes of less than 500 acres in  
 2.5 surface area must be discouraged.

2.6 (e) The treatment and reuse of water for nonconsumptive uses shall be encouraged.

2.7 ~~(f) Diversions of water from the state for use in other states or regions of the United~~  
 2.8 ~~States or Canada must be discouraged.~~

2.9 Sec. 2. Minnesota Statutes 2010, section 103G.265, subdivision 2, is amended to read:

2.10 Subd. 2. **Diversion or sale greater than 2,000,000 gallons per day.** A water  
 2.11 use permit or a plan that requires a permit or the commissioner's approval, involving a  
 2.12 diversion or sale of waters of the state of more than 2,000,000 gallons per day average  
 2.13 in a 30-day period, to a place outside of this state or from the basin of origin within this  
 2.14 state may not be granted or approved until:

2.15 (1) a determination is made by the commissioner that the water remaining in the  
 2.16 basin of origin will be adequate to meet the basin's water resources needs during the  
 2.17 specified life of the diversion project; and

2.18 (2) approval of the diversion or sale is given by the legislature.

2.19 Sec. 3. Minnesota Statutes 2010, section 103G.265, is amended by adding a  
 2.20 subdivision to read:

2.21 Subd. 2a. **Legislative approval for diversion or sale.** Legislative approval required  
 2.22 in subdivision 2, clause (2), shall be based on the following considerations:

2.23 (1) the requested diversion or sale of waters of the state is reasonable;

2.24 (2) the diversion or sale is not contrary to the conservation and use of waters of  
 2.25 the state; and

2.26 (3) the diversion or sale is not otherwise detrimental to the public welfare.

2.27 Sec. 4. **EFFECTIVE DATE.**

2.28 Sections 1 to 3 are effective the day following final enactment.