A bill for an act

relating to natural resources; modifying the Critical Areas Act of 1973; requiring rulemaking; amending Minnesota Statutes 2008, sections 116G.03, by adding subdivisions; 116G.15.

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

Section 1. Minnesota Statutes 2008, section 116G.03, is amended by adding a subdivision to read:

Subd. 12. **Base of the bluff.** "Base of the bluff" means a line delineating the bottom of a slope connecting the points at which the slope becomes 18 percent or greater. More than one bluff base may be encountered proceeding landward from the water.

Sec. 2. Minnesota Statutes 2008, section 116G.03, is amended by adding a subdivision to read:

Subd. 13. **Bluffline.** "Bluffline" means a line delineating the top of a slope connecting the points at which the slope becomes less than 18 percent. More than one bluffline may be encountered proceeding upslope from the river valley.

Sec. 3. Minnesota Statutes 2008, section 116G.03, is amended by adding a subdivision to read:

Subd. 14. **Bluff face or bluff.** "Bluff face" or "bluff" means the area between the bluffline and the bluff base.

Sec. 4. Minnesota Statutes 2008, section 116G.03, is amended by adding a subdivision to read:

Subd. 15. **Steep slopes.** "Steep slopes" means 12 percent to 18 percent slopes. Steep slopes are natural topographic features with an average slope of 12 to 18 percent measured over a horizontal distance of 50 feet or more.

Sec. 5. Minnesota Statutes 2008, section 116G.03, is amended by adding a subdivision to read:

Subd. 16. **Very steep slopes.** "Very steep slopes" means slopes 18 percent and greater. Very steep slopes are natural topographic features with an average slope of 18 percent or greater, measured over a horizontal distance of 50 feet or more.

Sec. 6. Minnesota Statutes 2008, section 116G.15, is amended to read:

116G.15 MISSISSIPPI RIVER CORRIDOR CRITICAL AREA.

Subdivision 1. **Establishment; purpose.** ~~(a)~~ The federal Mississippi National River and Recreation Area established pursuant to United States Code, title 16, section 460zz-2(k), is designated an area of critical concern in accordance with this chapter. ~~The governor shall review the existing Mississippi River critical area plan and specify any additional standards and guidelines to affected communities in accordance with section 116G.06, subdivision 2, paragraph (b), clauses (3) and (4), needed to insure preservation of the area pending the completion of the federal plan.~~ The purpose of the designation is to:

(1) protect and preserve the Mississippi River and adjacent lands that the legislature finds to be unique and valuable state and regional resources for the benefit of the health, safety, and welfare of the citizens of the state, region, and nation;

(2) prevent and mitigate irreversible damages to these state, regional, and natural resources;

(3) preserve and enhance the natural, aesthetic, cultural, and historical values of the Mississippi River and adjacent lands for public use and benefit;

(4) protect and preserve the Mississippi River as an essential element in the national, state, and regional transportation, sewer and water, and recreational systems; and

(5) protect and preserve the biological and ecological functions of the Mississippi River corridor.

~~The results of an environmental impact statement prepared under chapter 116D begun before and completed after July 1, 1994, for a proposed project that is located in the Mississippi River critical area north of the United States Army Corps of Engineers Lock and Dam Number One must be submitted in a report to the chairs of the environment and natural resources policy and finance committees of the house of representatives and the senate prior to the issuance of any state or local permits and the authorization~~

~~for an issuance of any bonds for the project. A report made under this paragraph shall be submitted by the responsible governmental unit that prepared the environmental impact statement, and must list alternatives to the project that are determined by the environmental impact statement to be economically less expensive and environmentally superior to the proposed project and identify any legislative actions that may assist in the implementation of environmentally superior alternatives. This paragraph does not apply to a proposed project to be carried out by the Metropolitan Council or a metropolitan agency as defined in section 473.121.~~

~~(b) If the results of an environmental impact statement required to be submitted by paragraph (a) indicate that there is an economically less expensive and environmentally superior alternative, then no member agency of the Environmental Quality Board shall issue a permit for the facility that is the subject of the environmental impact statement, other than an economically less expensive and environmentally superior alternative, nor shall any government bonds be issued for the facility, other than an economically less expensive and environmentally superior alternative, until after the legislature has adjourned its regular session sine die in 1996.~~

Subd. 2. **Administration; duties.** (a) The commissioner of natural resources shall administer the Mississippi River corridor critical area program. The commissioner shall work in consultation with the United States Army Corps of Engineers, the National Park Service, the Metropolitan Council, other agencies, and local units of government to ensure that the Mississippi River corridor critical area is managed in a way that:

(1) conserves the scenic, environmental, recreational, mineral, economic, cultural, and historic resources and functions of the river corridor;

(2) maintains the river channel for transportation by providing and maintaining barging and fleeting areas in appropriate locations consistent with the character of the Mississippi River and riverfront;

(3) provides for the continuation and development of a variety of urban uses, including industrial and commercial uses, and residential uses, where appropriate, within the Mississippi River corridor;

(4) utilizes certain reaches of the river as a source of water supply and as a receiving water for properly treated sewage, stormwater, and industrial waste effluents; and

(5) protects and preserves the biological and ecological functions of the corridor.

(b) The Metropolitan Council shall incorporate the standards developed under this section into its planning and shall work with local units of government and the commissioner to ensure the standards are being adopted and implemented appropriately.

Subd. 3. **Districts.** (a) The commissioner shall establish districts within the Mississippi River corridor critical area. The commissioner shall consider the following when establishing the districts:

(1) the protection of resources that existed as of March 12, 1979;

(2) the protection of improvements such as parks, trails, natural areas, and interpretive centers;

(3) the protection of resources identified in the Mississippi National River and Recreation Area Comprehensive Management Plan;

(4) the protection of resources identified in comprehensive plans developed by counties, cities, and towns within the Mississippi River corridor critical area;

(5) the intent of the Mississippi River corridor critical area land use districts from the governor's executive order number 79-19, published in the State Register on March 12, 1979; and

(6) identified scenic, geologic, and ecological resources.

Subd. 4. **Standards.** (a) The commissioner shall establish minimum guidelines and standards for the districts established in subdivision 3. The guidelines and standards for each district shall include: the intent of each district; key resources and features to be protected or enhanced based upon paragraph (b); permitted uses; and dimensional and performance standards for development. The commissioner may provide certain exceptions and criteria for standards, including, but not limited to, exceptions for river access facilities, water supply facilities, stormwater facilities, and wastewater treatment facilities.

(b) The guidelines and standards must protect or enhance the following key resources and features:

(1) floodplains;

(2) wetlands;

(3) gorges;

(4) areas of confluence with key tributaries;

(5) natural drainage routes;

(6) shorelines and riverbanks;

(7) bluffs;

(8) steep slopes and very steep slopes;

(9) unstable soils and bedrock;

(10) significant existing vegetative stands, tree canopies, and native plant communities;

(11) scenic views and vistas;

(12) publicly owned parks, trails, and open spaces;

(13) cultural and historic sites and structures; and

(14) water quality.

(c) The commissioner shall map all the bluffs and blufflines within the Mississippi River corridor critical area based upon the definitions established in section 116G.03, subdivisions 12 to 16. The commissioner may make minor adjustments to the map if appropriate and incorporate the final map by rule to serve as the definition of bluffline for the Mississippi River corridor critical area.

Subd. 5. **Application.** (a) The standards established under this section shall be used:

(1) by local units of government when preparing or updating plans or modifying regulations;

(2) by state and regional agencies for permit regulation and in developing plans within their jurisdiction;

(3) by the Metropolitan Council for reviewing plans, regulations, and development permit applications; and

(4) by the commissioner when approving plans, regulations, and development permit applications.

Subd. 6. **Notification; fees.** (a) A local unit of government or a regional or state agency shall notify the commissioner of natural resources of all developments in the corridor that require discretionary actions under their rules at least 30 days before taking action on the application. A local unit of government or agency failing to notify the commissioner at least 30 days before taking action shall submit a late fee of $500 to the commissioner. The commissioner may establish exemptions from the notification requirement for certain types of applications within the rules established under paragraph (b). For purposes of this section, a discretionary action includes all actions that require a public hearing, including variances, conditional use permits, and zoning amendments.

(b) The commissioner shall establish by rule fees to be paid by local units of government and agencies to recover costs of reviewing information submitted under paragraph (a). The fees shall be based upon the cost of receiving and reviewing the information. The fees must be set by rule. Section 16A.1283 does not apply to the fees, but the rule must not take effect until 45 legislative days after it has been reported to the legislature. A local unit of government may pass on the costs of the fee to applicants.

Subd. 7. **Rules.** The commissioner shall adopt rules to accomplish compliance with the requirements of this section. By January 15, 2010, the commissioner shall commence rulemaking under Minnesota Statutes, chapter 14. The rulemaking authority under this section is available one time and does not expire until the rules are adopted. Future

revisions of the rules established under this section require legislative authorization. Until the rules adopted under this section take effect, the commissioner shall administer the Mississippi River corridor critical area program in accordance with the provisions in effect as of January 1, 2009, including the standards and districts established in the governor's executive order number 79-19, published in the State Register on March 12, 1979.