

**SENATE
STATE OF MINNESOTA
NINETY-SECOND SESSION**

S.F. No. 228

(SENATE AUTHORS: WIGER)

DATE
01/21/2021

D-PG

131 Introduction and first reading

OFFICIAL STATUS

Referred to Environment and Natural Resources Policy and Legacy Finance

1.1 A bill for an act
1.2 relating to environment; facilitating use of artificial aquifer recharge where
1.3 appropriate; modifying water appropriation allocation priorities; requiring reports;
1.4 appropriating money; amending Minnesota Statutes 2020, sections 103A.204;
1.5 103G.261; 103G.291, subdivision 1.

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

1.7 Section 1. Minnesota Statutes 2020, section 103A.204, is amended to read:

1.8 **103A.204 GROUNDWATER POLICY.**

1.9 (a) The responsibility for the protection of groundwater in Minnesota is vested in a
1.10 multiagency approach to management. The following is a list of agencies and the groundwater
1.11 protection areas for which the agencies are primarily responsible; the list is not intended to
1.12 restrict the areas of responsibility to only those specified:

1.13 (1) Environmental Quality Board: coordination of state groundwater protection programs;

1.14 (2) Pollution Control Agency: water quality monitoring and reporting and the
1.15 development of best management practices and regulatory mechanisms for protection of
1.16 groundwater from nonagricultural chemical contaminants;

1.17 (3) Department of Agriculture: sustainable agriculture, integrated pest management,
1.18 water quality monitoring, and the development of best management practices and regulatory
1.19 mechanisms for protection of groundwater from agricultural chemical contaminants;

1.20 (4) Board of Water and Soil Resources: reporting on groundwater education and outreach
1.21 with local government officials, local water planning and management, and local cost share
1.22 programs;

2.1 (5) Department of Natural Resources: water quantity monitoring and regulation,
 2.2 sensitivity mapping, and development of a plan for the use of integrated pest management
 2.3 and sustainable agriculture on state-owned lands; and

2.4 (6) Department of Health: regulation of wells and borings, and the development of health
 2.5 risk limits under section 103H.201.

2.6 (b) The Environmental Quality Board shall prepare a report on policy issues related to
 2.7 its responsibilities listed in paragraph (a), and include these reports with the assessments in
 2.8 section 103A.43 and the "Minnesota Water Plan" in section 103B.151.

2.9 (c) Where groundwater levels are depleted and not naturally recovering with sufficient
 2.10 speed, it is the policy of the state that artificial recharge options be considered and
 2.11 implemented where feasible and appropriate.

2.12 Sec. 2. Minnesota Statutes 2020, section 103G.261, is amended to read:

2.13 **103G.261 WATER ALLOCATION PRIORITIES.**

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

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

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

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

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

2.25 (5) fifth priority, uses, other than agricultural irrigation, processing of agricultural
 2.26 products, and power production, involving consumption in excess of 10,000 gallons per
 2.27 day; ~~and~~

2.28 (6) sixth priority, irrigating golf courses that implement best management practices as
 2.29 part of a commissioner-approved plan for conserving water and using water efficiently; and

2.30 (7) seventh priority, nonessential uses.

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

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

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

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

3.9 Sec. 3. Minnesota Statutes 2020, section 103G.291, subdivision 1, is amended to read:

3.10 Subdivision 1. **Declaration and conservation.** (a) If the governor determines and
3.11 declares by executive order that there is a critical water deficiency, public water supply
3.12 authorities appropriating water must adopt and enforce water conservation restrictions within
3.13 their jurisdiction that are consistent with rules adopted by the commissioner.

3.14 (b) The restrictions must limit lawn sprinkling, vehicle washing, ~~golf course and~~ park
3.15 irrigation, and other nonessential uses; and have appropriate penalties for failure to comply
3.16 with the restrictions.

3.17 Sec. 4. **REPORT ON WAYS TO ENSURE SUSTAINABILITY OF MINNESOTA'S**
3.18 **GROUNDWATER AND SURFACE WATER.**

3.19 No later than February 1, 2022, the commissioner of natural resources must report to
3.20 the chairs and ranking minority members of the house of representatives and senate
3.21 committees and divisions with jurisdiction over environment and natural resources policy
3.22 on methods to ensure that Minnesota's groundwater and surface water supplies are sustainable
3.23 in the future. The recommendations must include any statutory, regulatory, or policy changes
3.24 needed to ensure that the state's water will not be transferred out of state in an unsustainable
3.25 manner.

3.26 Sec. 5. **REPORT ON ARTIFICIAL AQUIFER RECHARGE.**

3.27 By February 1, 2022, the Environmental Quality Board, in cooperation with the agencies
3.28 listed in Minnesota Statutes, section 103A.204, paragraph (a), must submit a report to the
3.29 chairs and ranking minority members of the house of representatives and senate committees
3.30 and divisions with jurisdiction over environment and natural resources policy on the

4.1 feasibility of using artificial aquifer recharge to replenish groundwater levels in aquifers
4.2 where water levels are insufficient. The report must include:

4.3 (1) an explanation of the various techniques available for artificial aquifer recharge;

4.4 (2) a summary of the strengths, weaknesses, and costs of each of the recharge methods
4.5 identified;

4.6 (3) an overview of which aquifers in the state might be candidates for artificial recharge;

4.7 (4) an explanation of the potential environmental effects of artificial recharge; and

4.8 (5) identification of any statutory, regulatory, or policy changes needed to facilitate and
4.9 implement the policy in Minnesota Statutes, section 103A.204.

4.10 **Sec. 6. PILOT PROGRAM TO ENSURE SAFE AND SUSTAINABLE DRINKING**
4.11 **WATER FOR THE FUTURE; APPROPRIATION.**

4.12 \$..... in fiscal year 2022 is appropriated from the general fund to the commissioner of
4.13 natural resources, in cooperation with the Board of Regents of the University of Minnesota,
4.14 Minnesota Geological Survey, to do all of the following to ensure safe and sustainable
4.15 drinking water for the future:

4.16 (1) select a pilot program area consisting of a multicounty area that includes only counties
4.17 for which county geological atlases have been completed and in which a regional aquifer
4.18 or watershed is located;

4.19 (2) develop and implement a method for synthesizing and displaying county geologic
4.20 atlas data on an aquifer or watershed basis rather than a county basis in the pilot program
4.21 area. The data must include information about discharge and recharge;

4.22 (3) construct a flow model based on the data and apply the model to determine the water
4.23 budget for the aquifer or watershed in the pilot program area and resulting prudential limits
4.24 on sustainable water appropriations from the aquifer or watershed; and

4.25 (4) no later than October 1, 2022, submit a plan to the chairs and ranking minority
4.26 members of the house of representatives and senate committees and divisions with jurisdiction
4.27 over environment and natural resources policy and finance that summarizes the work and
4.28 results of the pilot program and provides a plan for undertaking similar efforts for all major
4.29 aquifers in the state, including funding options.