

State of Minnesota  
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 1176

03/04/2013 Authored by Hansen

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

1.1 A bill for an act  
1.2 relating to water; eliminating the Clean Water Council and reassigning duties;  
1.3 amending Minnesota Statutes 2012, sections 10A.01, subdivision 35; 97A.056,  
1.4 subdivision 3; 114D.20, subdivision 5; repealing Minnesota Statutes 2012,  
1.5 sections 114D.15, subdivision 3; 114D.20, subdivisions 6, 7; 114D.30.

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

1.7 Section 1. Minnesota Statutes 2012, section 10A.01, subdivision 35, is amended to read:

1.8 Subd. 35. **Public official.** "Public official" means any:

1.9 (1) member of the legislature;

1.10 (2) individual employed by the legislature as secretary of the senate, legislative  
1.11 auditor, chief clerk of the house of representatives, revisor of statutes, or researcher,  
1.12 legislative analyst, or attorney in the Office of Senate Counsel and Research or House  
1.13 Research;

1.14 (3) constitutional officer in the executive branch and the officer's chief administrative  
1.15 deputy;

1.16 (4) solicitor general or deputy, assistant, or special assistant attorney general;

1.17 (5) commissioner, deputy commissioner, or assistant commissioner of any state  
1.18 department or agency as listed in section 15.01 or 15.06, or the state chief information  
1.19 officer;

1.20 (6) member, chief administrative officer, or deputy chief administrative officer of a  
1.21 state board or commission that has either the power to adopt, amend, or repeal rules under  
1.22 chapter 14, or the power to adjudicate contested cases or appeals under chapter 14;

1.23 (7) individual employed in the executive branch who is authorized to adopt, amend,  
1.24 or repeal rules under chapter 14 or adjudicate contested cases under chapter 14;

1.25 (8) executive director of the State Board of Investment;

(9) deputy of any official listed in clauses (7) and (8);  
(10) judge of the Workers' Compensation Court of Appeals;  
(11) administrative law judge or compensation judge in the State Office of  
Administrative Hearings or unemployment law judge in the Department of Employment  
and Economic Development;  
(12) member, regional administrator, division director, general counsel, or operations  
manager of the Metropolitan Council;  
(13) member or chief administrator of a metropolitan agency;  
(14) director of the Division of Alcohol and Gambling Enforcement in the  
Department of Public Safety;  
(15) member or executive director of the Higher Education Facilities Authority;  
(16) member of the board of directors or president of Enterprise Minnesota, Inc.;  
(17) member of the board of directors or executive director of the Minnesota State  
High School League;  
(18) member of the Minnesota Ballpark Authority established in section 473.755;  
(19) citizen member of the Legislative-Citizen Commission on Minnesota Resources;  
(20) manager of a watershed district, or member of a watershed management  
organization as defined under section 103B.205, subdivision 13;  
(21) supervisor of a soil and water conservation district;  
(22) director of Explore Minnesota Tourism;  
(23) citizen member of the Lessard-Sams Outdoor Heritage Council established in  
section 97A.056; or  
~~(24) citizen member of the Clean Water Council established in section 114D.30; or~~  
~~(25)~~ (24) member or chief executive of the Minnesota Sports Facilities Authority  
established in section 473J.07.

Sec. 2. Minnesota Statutes 2012, section 97A.056, subdivision 3, is amended to read:

Subd. 3. **Council recommendations.** (a) The council shall make recommendations  
to the legislature on appropriations of money from the outdoor heritage fund that are  
consistent with the Constitution and state law and that will achieve the outcomes of  
existing natural resource plans, including, but not limited to, the Minnesota Statewide  
Conservation and Preservation Plan, that directly relate to the restoration, protection, and  
enhancement of wetlands, prairies, forests, and habitat for fish, game, and wildlife, and  
that prevent forest fragmentation, encourage forest consolidation, and expand restored  
native prairie. In making recommendations, the council shall consider a range of options  
that would best restore, protect, and enhance wetlands, prairies, forests, and habitat for

fish, game, and wildlife. The council's recommendations shall be submitted no later than January 15 each year. The council shall present its recommendations to the senate and house of representatives committees with jurisdiction over the environment and natural resources budget by February 15 in odd-numbered years, and within the first four weeks of the legislative session in even-numbered years. The council's budget recommendations to the legislature shall be separate from the Department of Natural Resource's budget recommendations.

(b) To encourage and support local conservation efforts, the council shall establish a conservation partners program. Local, regional, state, or national organizations may apply for matching grants for restoration, protection, and enhancement of wetlands, prairies, forests, and habitat for fish, game, and wildlife, prevention of forest fragmentation, encouragement of forest consolidation, and expansion of restored native prairie.

~~(e) The council may work with the Clean Water Council to identify projects that are consistent with both the purpose of the outdoor heritage fund and the purpose of the clean water fund.~~

~~(d)~~ (c) The council may make recommendations to the Legislative-Citizen Commission on Minnesota Resources on scientific research that will assist in restoring, protecting, and enhancing wetlands, prairies, forests, and habitat for fish, game, and wildlife, preventing forest fragmentation, encouraging forest consolidation, and expanding restored native prairie.

~~(e)~~ (d) Recommendations of the council, including approval of recommendations for the outdoor heritage fund, require an affirmative vote of at least nine members of the council.

~~(f)~~ (e) The council may work with ~~the Clean Water Council~~, the Legislative-Citizen Commission on Minnesota Resources, the Board of Water and Soil Resources, soil and water conservation districts, and experts from Minnesota State Colleges and Universities and the University of Minnesota in developing the council's recommendations.

~~(g)~~ (f) The council shall develop and implement a process that ensures that citizens and potential recipients of funds are included throughout the process, including the development and finalization of the council's recommendations. The process must include a fair, equitable, and thorough process for reviewing requests for funding and a clear and easily understood process for ranking projects.

~~(h)~~ (g) The council shall use the regions of the state based upon the ecological sections and subsections developed by the Department of Natural Resources and establish objectives for each region and subregion to achieve the purposes of the fund outlined in the state constitution.

4.1           (+) (h) The council shall develop and submit to the Legislative Coordinating  
4.2 Commission plans for the first ten years of funding, and a framework for 25 years of  
4.3 funding, consistent with statutory and constitutional requirements. The council may use  
4.4 existing plans from other legislative, state, and federal sources, as applicable.

4.5           Sec. 3. Minnesota Statutes 2012, section 114D.20, subdivision 5, is amended to read:

4.6           Subd. 5. **Priorities for preparation of TMDL's.** ~~The Clean Water Council~~  
4.7 commissioners of natural resources, agriculture, health, and the Pollution Control  
4.8 Agency and the executive director of the Board of Water and Soil Resources shall jointly  
4.9 recommend priorities for scheduling and preparing TMDL's and TMDL implementation  
4.10 plans, taking into account the severity of the impairment, the designated uses of those  
4.11 waters, and other applicable federal TMDL requirements. In recommending priorities,  
4.12 ~~the council~~ commissioners and executive director shall also give consideration to waters  
4.13 and watersheds:

4.14           (1) with impairments that pose the greatest potential risk to human health;

4.15           (2) with impairments that pose the greatest potential risk to threatened or endangered  
4.16 species;

4.17           (3) with impairments that pose the greatest potential risk to aquatic health;

4.18           (4) where other public agencies and participating organizations and individuals,  
4.19 especially local, basinwide, watershed, or regional agencies or organizations, have  
4.20 demonstrated readiness to assist in carrying out the responsibilities, including availability  
4.21 and organization of human, technical, and financial resources necessary to undertake  
4.22 the work; and

4.23           (5) where there is demonstrated coordination and cooperation among cities,  
4.24 counties, watershed districts, and soil and water conservation districts in planning and  
4.25 implementation of activities that will assist in carrying out the responsibilities.

4.26           Sec. 4. **REPEALER.**

4.27           Minnesota Statutes 2012, sections 114D.15, subdivision 3; 114D.20, subdivisions 6  
4.28 and 7; and 114D.30, are repealed.

**114D.15 DEFINITIONS.**

Subd. 3. **Clean Water Council or council.** "Clean Water Council" or "council" means the Clean Water Council created pursuant to section 114D.30, subdivision 1.

**114D.20 IMPLEMENTATION; COORDINATION; GOALS; POLICIES; AND PRIORITIES.**

Subd. 6. **Priorities for restoration of impaired waters.** In implementing restoration of impaired waters, in addition to the priority considerations in subdivision 5, the Clean Water Council shall give priority in its recommendations for restoration funding from the clean water fund to restoration projects that:

(1) coordinate with and utilize existing local authorities and infrastructure for implementation;

(2) can be implemented in whole or in part by providing support for existing or ongoing restoration efforts;

(3) most effectively leverage other sources of restoration funding, including federal, state, local, and private sources of funds;

(4) show a high potential for early restoration and delisting based upon scientific data developed through public agency or citizen monitoring or other means; and

(5) show a high potential for long-term water quality and related conservation benefits.

Subd. 7. **Priorities for funding prevention actions.** The Clean Water Council shall apply the priorities applicable under subdivision 6, as far as practicable, when recommending priorities for funding actions to prevent groundwater and surface waters from becoming degraded or impaired and to improve the quality of surface waters that are listed as impaired but do not have an approved TMDL.

**114D.30 CLEAN WATER COUNCIL.**

Subdivision 1. **Creation; duties.** A Clean Water Council is created to advise on the administration and implementation of this chapter, and foster coordination and cooperation as described in section 114D.20, subdivision 1. The council may also advise on the development of appropriate processes for expert scientific review as described in section 114D.35, subdivision 2. The Pollution Control Agency shall provide administrative support for the council with the support of other member agencies. The members of the council shall elect a chair from the voting members of the council.

Subd. 2. **Membership; appointment.** (a) The commissioners of natural resources, agriculture, health, and the Pollution Control Agency, and the executive director of the Board of Water and Soil Resources shall each appoint one person from their respective agency to serve as a nonvoting member of the council. Two members of the house of representatives, including one member from the majority party and one member from the minority party, appointed by the speaker and two senators, including one member from the majority party and one member from the minority party, appointed according to the rules of the senate shall serve at the pleasure of the appointing authority as nonvoting members of the council. Agency and legislative members appointed under this paragraph serve as nonvoting members of the council.

(b) Nineteen voting members of the council shall be appointed by the governor as follows:

(1) two members representing statewide farm organizations;

(2) two members representing business organizations;

(3) two members representing environmental organizations;

(4) one member representing soil and water conservation districts;

(5) one member representing watershed districts;

(6) one member representing nonprofit organizations focused on improvement of Minnesota lakes or streams;

(7) two members representing organizations of county governments, one member representing the interests of rural counties and one member representing the interests of counties in the seven-county metropolitan area;

(8) two members representing organizations of city governments;

(9) one member representing the Metropolitan Council established under section 473.123;

(10) one member representing township officers;

(11) one member representing the interests of tribal governments;

(12) one member representing statewide hunting organizations;

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### Repealed Minnesota Statutes: 13-1750

(13) one member representing the University of Minnesota or a Minnesota state university;  
and

(14) one member representing statewide fishing organizations.

Members appointed under this paragraph must not be registered lobbyists or legislators. In making appointments, the governor must attempt to provide for geographic balance. The members of the council appointed by the governor are subject to the advice and consent of the senate.

Subd. 3. **Conflict of interest.** A Clean Water Council member may not participate in or vote on a decision of the council relating to an organization in which the member has either a direct or indirect personal financial interest. While serving on the Clean Water Council, a member shall avoid any potential conflict of interest.

Subd. 4. **Terms; compensation; removal.** The terms of members representing the state agencies and the Metropolitan Council are four years and are coterminous with the governor. The terms of other nonlegislative members of the council shall be as provided in section 15.059, subdivision 2. Members may serve until their successors are appointed and qualify. Compensation and removal of nonlegislative council members is as provided in section 15.059, subdivisions 3 and 4. Compensation of legislative members is as determined by the appointing authority. The Pollution Control Agency may reimburse legislative members for expenses. A vacancy on the council may be filled by the appointing authority provided in subdivision 1 for the remainder of the unexpired term.

Subd. 5. **Implementation plan.** The Clean Water Council shall recommend a plan for implementation of this chapter and the provisions of article XI, section 15, of the Minnesota Constitution relating to clean water. The recommended plan shall address general procedures and time frames for implementing this chapter, and shall include a more specific implementation work plan for the next fiscal biennium and a framework for setting priorities to address impaired waters consistent with section 114D.20, subdivisions 2 to 7. The council shall issue a revised plan by December 1 of each even-numbered year.

Subd. 6. **Recommendations on appropriation of funds.** (a) The Clean Water Council shall recommend to the governor and the legislature the manner in which money from the clean water fund should be appropriated for the purposes stated in article XI, section 15, of the Minnesota Constitution and section 114D.50.

(b) The council's recommendations must:

(1) be to protect, enhance, and restore water quality in lakes, rivers, and streams and to protect groundwater from degradation and ensure that at least five percent of the clean water fund is spent only to protect drinking water sources;

(2) be consistent with the purposes, policies, goals, and priorities in this chapter; and

(3) allocate adequate support and resources to identify degraded groundwater and impaired waters, develop TMDL's, implement restoration of groundwater and impaired waters, and provide assistance and incentives to prevent groundwater and surface waters from becoming degraded or impaired and improve the quality of surface waters which are listed as impaired but have no approved TMDL.

(c) The council must recommend methods of ensuring that awards of grants, loans, or other funds from the clean water fund specify the outcomes to be achieved as a result of the funding and specify standards to hold the recipient accountable for achieving the desired outcomes. Expenditures from the fund must be appropriated by law.

Subd. 7. **Biennial report to legislature.** By December 1 of each even-numbered year, the council shall submit a report to the legislature on the activities for which money has been or will be spent for the current biennium, the activities for which money is recommended to be spent in the next biennium, and the impact on economic development of the implementation of efforts to protect and restore groundwater and the impaired waters program. The report due on December 1, 2014, must include an evaluation of the progress made through June 30, 2014, in implementing this chapter and the provisions of article XI, section 15, of the Minnesota Constitution relating to clean water, the need for funding of future implementation, and recommendations for the sources of funding.