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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 1367

03/07/2013 Authored by Kelly, Melin, Drazkowski, Metsa, Benson, M., and others
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 natural resources; providing for assistance to local governments for
1.3 regulation of silica sand projects; proposing coding for new law in Minnesota
1.4 Statutes, chapter 116.

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

1.6 Section 1. **[116.68] SILICA SAND LOCAL GOVERNMENT ASSISTANCE.**

1.7 Subdivision 1. **Definitions.** The definitions in this subdivision apply to this section.

1.8 (a) "Local government unit" means the local government responsible for zoning and
1.9 land use approvals for all or a portion of a silica sand project.

1.10 (b) "Silica sand" means naturally existing high quartz level sand for several
1.11 industrial uses. Silica sand does not include common rock, stone, aggregate, gravel,
1.12 or sand with a low quartz level.

1.13 (c) "Silica sand project" means the excavation and mining of silica sand; the
1.14 washing, cleaning, screening, crushing, filtering, sorting, processing, stockpiling, and
1.15 storing of silica sand, either at the mining site or at any other site; the hauling and
1.16 transporting of silica sand; or a facility for transporting silica sand to destinations by rail,
1.17 barge, truck, or other means of transportation.

1.18 Subd. 2. **Technical advisory council.** (a) A Silica Sand Technical Advisory Council
1.19 is created to provide assistance to local governments to ensure the protection of human
1.20 health and the environment from silica sand projects.

1.21 (b) The council is comprised of technical representatives from the Pollution Control
1.22 Agency and the Departments of Natural Resources, Health, and Transportation, appointed
1.23 by the respective commissioner of each agency. The appointees serve at the pleasure
1.24 of the appointing commissioner.

2.1 (c) The commissioner of the Pollution Control Agency or the commissioner's
2.2 designee shall chair the council.

2.3 (d) Each of the state agencies named under paragraph (b) shall provide staff support
2.4 as needed for the execution of council duties.

2.5 (e) Notwithstanding section 15.059, subdivision 5, the council does not expire.

2.6 Subd. 3. **Model ordinances report.** By October 1, 2013, the Silica Sand Technical
2.7 Advisory Council shall create a report on local government ordinances and local
2.8 government permits that have been approved for regulation of silica sand projects for
2.9 reference by local governments in developing local ordinances. The report shall include a
2.10 comparison of local ordinance and permit provisions related to:

2.11 (1) mining operation and processing setbacks and setbacks from residences,
2.12 residential districts, streets, highways, bluffs, and the ordinary high water marks of
2.13 public waters;

2.14 (2) standards for hours of operation;

2.15 (3) groundwater and surface water monitoring and mitigation plan requirements,
2.16 including:

2.17 (i) well sealing requirements;

2.18 (ii) annual submission of monitoring well data; and

2.19 (iii) storm water runoff rate limits;

2.20 (4) air monitoring and data submission requirements;

2.21 (5) dust control requirements;

2.22 (6) noise testing and mitigation plan requirements;

2.23 (7) blast monitoring plan requirements;

2.24 (8) lighting requirements;

2.25 (9) inspection requirements;

2.26 (10) financial assurance requirements; and

2.27 (11) reclamation plan requirements.

2.28 Subd. 4. **Council assistance.** (a) A local government unit may request that the Silica
2.29 Sand Technical Advisory Council provide assistance and advice in evaluating a silica sand
2.30 project and developing proper conditions to be included in any local government approval
2.31 for a silica sand project to ensure the protection of human health and the environment.
2.32 The council may seek advice and assistance from others with additional expertise to help
2.33 the council in its work.

2.34 (b) The council, if requested to do so by the local government unit, must make
2.35 technical findings regarding state laws and regulations applicable to the silica sand project
2.36 and recommendations for conditions that the local government unit should consider

3.1 incorporating into the local government approval for the project to protect human health
3.2 and the environment. The council must provide its findings to the local government unit
3.3 for consideration.

3.4 (c) When the council assembles findings or makes a recommendation for the
3.5 protection of human health and the environment, the local government unit must consider
3.6 the findings or recommendations of the council in its approval or denial of a silica sand
3.7 project. If the local government unit does not agree with the council's findings and
3.8 recommendations, the detailed reasons for the disagreement must be part of the local
3.9 government unit's record of decision.

3.10 (d) Silica sand project proposers must cooperate in providing local government unit
3.11 staff and members of the council with information regarding the project.

3.12 **EFFECTIVE DATE.** This section is effective the day following final enactment.