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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 1828

02/15/2023 Authored by Hansen, R., The bill was read for the first time and referred to the Committee on Environment and Natural Resources Finance and Policy

1.1 A bill for an act
1.2 relating to natural resources; modifying provisions for water and soil conservation;
1.3 amending Minnesota Statutes 2022, sections 103B.101, subdivisions 9, 16, by
1.4 adding a subdivision; 103B.103; 103C.501, subdivisions 1, 4, 5, 6; 103D.605,
1.5 subdivision 5; 103F.505; 103F.511, by adding a subdivision; 103G.2242,
1.6 subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 103B;
1.7 103F; repealing Minnesota Statutes 2022, section 103C.501, subdivisions 2, 3;
1.8 Minnesota Rules, parts 8400.0500; 8400.0550; 8400.0600, subparts 4, 5; 8400.0900,
1.9 subparts 1, 2, 4, 5; 8400.1650; 8400.1700; 8400.1750; 8400.1800; 8400.1900.

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

1.11 Section 1. Minnesota Statutes 2022, section 103B.101, subdivision 9, is amended to read:

1.12 Subd. 9. Powers and duties. (a) In addition to the powers and duties prescribed
1.13 elsewhere, the board shall:

1.14 (1) coordinate the water and soil resources planning and implementation activities of
1.15 counties, soil and water conservation districts, watershed districts, watershed management
1.16 organizations, and any other local units of government through its various authorities for
1.17 approval of local plans, administration of state grants, contracts and easements, and by other
1.18 means as may be appropriate;

1.19 (2) facilitate communication and coordination among state agencies in cooperation with
1.20 the Environmental Quality Board, and between state and local units of government, in order
1.21 to make the expertise and resources of state agencies involved in water and soil resources
1.22 management available to the local units of government to the greatest extent possible;

1.23 (3) coordinate state and local interests with respect to the study in southwestern Minnesota
1.24 under United States Code, title 16, section 1009;

2.1 (4) develop information and education programs designed to increase awareness of local  
 2.2 water and soil resources problems and awareness of opportunities for local government  
 2.3 involvement in preventing or solving them;

2.4 (5) provide a forum for the discussion of local issues and opportunities relating to water  
 2.5 and soil resources management;

2.6 (6) adopt an annual budget and work program that integrate the various functions and  
 2.7 responsibilities assigned to it by law; and

2.8 (7) report to the governor and the legislature by October 15 of each even-numbered year  
 2.9 with an assessment of board programs and recommendations for any program changes and  
 2.10 board membership changes necessary to improve state and local efforts in water and soil  
 2.11 resources management.

2.12 (b) The board may accept grants, gifts, donations, or contributions in money, services,  
 2.13 materials, or otherwise from the United States, a state agency, or other source to achieve  
 2.14 an authorized or delegated purpose. The board may enter into a contract or agreement  
 2.15 necessary or appropriate to accomplish the transfer. The board may conduct or participate  
 2.16 in local, state, or federal programs or projects that have as one purpose or effect the  
 2.17 preservation or enhancement of water and soil resources and may enter into and administer  
 2.18 agreements with local governments or landowners or their designated agents as part of those  
 2.19 programs or projects. The board may receive and expend money to acquire conservation  
 2.20 easements, as defined in chapter 84C, on behalf of the state and federal government consistent  
 2.21 with ~~the~~ Camp Ripley's Army Compatible Use Buffer Project, Sentinel Landscape program,  
 2.22 or related conservation programs. The board may enter into agreements, including grant  
 2.23 agreements, with Tribal nations, federal agencies, higher education institutions, local  
 2.24 governments, and private sector organizations to carry out programs and other responsibilities  
 2.25 prescribed or allowed by statute.

2.26 (c) Any money received is hereby deposited in an account in a fund other than the general  
 2.27 fund and appropriated and dedicated for the purpose for which it is granted.

2.28 Sec. 2. Minnesota Statutes 2022, section 103B.101, subdivision 16, is amended to read:

2.29 Subd. 16. ~~Water quality~~ **Conservation practices; standardized specifications.** (a)  
 2.30 The board of ~~Water and Soil Resources~~ shall must work with state and federal agencies,  
 2.31 Tribal nations, academic institutions, local governments, practitioners, and stakeholders to  
 2.32 foster mutual understanding and provide recommendations for standardized specifications

3.1 for ~~water quality and soil conservation protection and improvement practices and~~ projects,  
3.2 and systems for:

3.3 (1) erosion or sedimentation control;

3.4 (2) improvements to water quality or water quantity;

3.5 (3) habitat restoration and enhancement;

3.6 (4) energy conservation; and

3.7 (5) climate adaptation, resiliency, or mitigation.

3.8 (b) The board may convene working groups or work teams to develop information,  
3.9 education, and recommendations.

3.10 Sec. 3. Minnesota Statutes 2022, section 103B.101, is amended by adding a subdivision  
3.11 to read:

3.12 Subd. 18. **Guidelines for establishing and enhancing native vegetation.** (a) The board  
3.13 must work with state and federal agencies, Tribal nations, academic institutions, local  
3.14 governments, practitioners, and stakeholders to foster mutual understanding and to provide  
3.15 recommendations for standardized specifications to establish and enhance native vegetation  
3.16 to provide benefits for:

3.17 (1) water quality;

3.18 (2) soil conservation;

3.19 (3) habitat enhancement;

3.20 (4) energy conservation; and

3.21 (5) climate adaptation, resiliency, or mitigation.

3.22 (b) The board may convene working groups or work teams to develop information,  
3.23 education, and recommendations.

3.24 Sec. 4. Minnesota Statutes 2022, section 103B.103, is amended to read:

3.25 **103B.103 EASEMENT STEWARDSHIP ACCOUNTS.**

3.26 Subdivision 1. **Accounts established; sources.** (a) The water and soil conservation  
3.27 easement stewardship account and the mitigation easement stewardship account are created  
3.28 in the special revenue fund. The accounts consist of money credited to the accounts and

4.1 interest and other earnings on money in the accounts. The State Board of Investment must  
4.2 manage the accounts to maximize long-term gain.

4.3 (b) Revenue from contributions and money appropriated for any purposes of the account  
4.4 as described in subdivision 2 must be deposited in the water and soil conservation easement  
4.5 stewardship account. Revenue from contributions, ~~wetland banking~~ mitigation fees designated  
4.6 for stewardship purposes by the board, easement stewardship payments authorized under  
4.7 subdivision 3, and money appropriated for any purposes of the account as described in  
4.8 subdivision 2 must be deposited in the mitigation easement stewardship account.

4.9 Subd. 2. **Appropriation; purposes of accounts.** Five percent of the balance on July 1  
4.10 each year in the water and soil conservation easement stewardship account and five percent  
4.11 of the balance on July 1 each year in the mitigation easement stewardship account are  
4.12 annually appropriated to the board and may be spent ~~only~~ to cover the costs of managing  
4.13 easements held by the board, including costs associated with:

4.14 (1) repairing or replacing structures;

4.15 (2) monitoring;

4.16 (3) landowner contacts;

4.17 (4) records storage and management;

4.18 (5) processing landowner notices;

4.19 (6) requests for approval or amendments;

4.20 (7) enforcement; and

4.21 (8) legal services associated with easement management activities.

4.22 Subd. 3. **Financial contributions.** The board shall seek a financial contribution to the  
4.23 water and soil conservation easement stewardship account for each conservation easement  
4.24 acquired by the board. The board shall seek a financial contribution or assess an easement  
4.25 stewardship payment to the mitigation easement stewardship account for each wetland  
4.26 ~~banking~~ mitigation easement acquired by the board. Unless otherwise provided by law, the  
4.27 board shall determine the amount of the contribution or payment, which must be an amount  
4.28 calculated to earn sufficient money to meet the costs of managing the easement at a level  
4.29 that neither significantly overrecovers nor underrecovers the costs. In determining the  
4.30 amount of the financial contribution, the board shall consider:

4.31 (1) the estimated annual staff hours needed to manage the conservation easement, taking  
4.32 into consideration factors such as easement type, size, location, and complexity;

5.1 (2) the average hourly wages for the class or classes of state and local employees expected  
5.2 to manage the easement;

5.3 (3) the estimated annual travel expenses to manage the easement;

5.4 (4) the estimated annual miscellaneous costs to manage the easement, including supplies  
5.5 and equipment, information technology support, and aerial flyovers;

5.6 (5) the estimated annualized costs of legal services, including the cost to enforce the  
5.7 easement in the event of a violation;

5.8 (6) the estimated annualized costs for repairing or replacing water control structures;

5.9 and

5.10 ~~(6)~~ (7) the expected rate of return on investments in the account.

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

5.12 **Sec. 5. [103B.105] HABITAT-FRIENDLY UTILITIES PROGRAM.**

5.13 (a) The Board of Water and Soil Resources may provide financial and technical assistance  
5.14 to promote the successful establishment of native vegetation as part of utility projects,  
5.15 including solar and wind projects, pipelines, and electrical transmission corridors, to:

5.16 (1) ensure the integrity and resiliency of Minnesota landscapes; and

5.17 (2) protect habitat and water resources.

5.18 (b) The board must establish criteria for grants or payments awarded under this section.  
5.19 Grants or payments awarded under this section may prioritize proposals in areas identified  
5.20 by state and federal agencies and conservation partners for protecting high-priority natural  
5.21 resources and wildlife species.

5.22 (c) The board may collaborate with and enter into agreements with federal, state, and  
5.23 local agencies; Tribal nations; utility companies; nonprofit organizations; and contractors  
5.24 to implement and promote the program.

5.25 **Sec. 6. [103B.106] HABITAT ENHANCEMENT LANDSCAPE PROGRAM.**

5.26 (a) The Board of Water and Soil Resources may provide financial and technical assistance  
5.27 to establish or enhance areas of diverse native vegetation to:

5.28 (1) support declining populations of bees, butterflies, dragonflies, birds, and other wildlife  
5.29 species that are essential for ecosystems and food production across conservation lands,  
5.30 open spaces, and natural areas; and

6.1 (2) provide additional benefits for water management, carbon sequestration, and landscape  
 6.2 and climate resiliency.

6.3 (b) The board must establish criteria for grants or payments awarded under this section.  
 6.4 Grants or payments awarded under this section may prioritize proposals in areas identified  
 6.5 by state and federal agencies and conservation partners as high priority for protecting  
 6.6 endangered or threatened pollinator and other species.

6.7 (c) The board may collaborate with and enter into agreements with federal, state, and  
 6.8 local agencies; Tribal nation; nonprofit organizations; and contractors to implement and  
 6.9 promote the program.

6.10 Sec. 7. Minnesota Statutes 2022, section 103C.501, subdivision 1, is amended to read:

6.11 Subdivision 1. **Cost-share Program authorization.** The state board may allocate  
 6.12 available funds to districts ~~to share the cost of systems or~~ for practices, projects, and systems  
 6.13 for:

6.14 (1) erosion or sedimentation control or;

6.15 (2) improvements to water quality improvement that are designed to protect and improve  
 6.16 soil and water resources; or water quantity;

6.17 (3) habitat enhancement;

6.18 (4) plant biodiversity;

6.19 (5) energy conservation; or

6.20 (6) climate adaptation, resiliency, or mitigation.

6.21 Sec. 8. Minnesota Statutes 2022, section 103C.501, subdivision 4, is amended to read:

6.22 Subd. 4. **Cost-sharing Use of funds.** ~~(a) The state board shall allocate cost-sharing funds~~  
 6.23 ~~to areas with high-priority erosion, sedimentation, or water quality problems or water quantity~~  
 6.24 ~~problems due to altered hydrology. The areas must be selected based on priorities established~~  
 6.25 ~~by the state board.~~

6.26 ~~(b) The allocated funds must be used for:~~

6.27 (1) for conservation practices for high-priority problems activities, including technical  
 6.28 and financial assistance, identified in the comprehensive and annual work plans of the  
 6.29 districts, for the technical assistance portion of the grant funds state-approved plans that are

7.1 related to water and natural resources and established under chapters 103B, 103C, 103D,  
 7.2 103F, 103G, and 114D;

7.3 (2) to leverage federal or other nonstate funds; or

7.4 (3) to address high-priority needs identified in local water management plans or  
 7.5 comprehensive watershed management plans by the district based on public input.

7.6 Sec. 9. Minnesota Statutes 2022, section 103C.501, subdivision 5, is amended to read:

7.7 Subd. 5. **Contracts by districts.** (a) A district board may ~~contract on a cost-share basis~~  
 7.8 ~~to furnish financial aid to~~ provide technical and financial assistance to a land occupier or  
 7.9 to a state or federal agency for ~~permanent systems~~ practices and projects for:

7.10 (1) erosion or sedimentation control ~~or~~;

7.11 (2) improvements to water quality or water quantity ~~improvements that are consistent~~  
 7.12 ~~with the district's comprehensive and annual work plans;~~

7.13 (3) habitat enhancement;

7.14 (4) plant biodiversity;

7.15 (5) energy conservation; or

7.16 (6) climate adaptation, resiliency, or mitigation.

7.17 (b) A district board, ~~with approval from the state board and,~~ consistent with state board  
 7.18 rules and policies, may ~~contract on a cost-share basis to furnish financial aid to a land~~  
 7.19 ~~occupier for~~ to provide technical and financial assistance for structural and nonstructural  
 7.20 ~~land management practices that are part of a planned erosion control or water quality~~  
 7.21 ~~improvement plan~~ and projects.

7.22 (c) ~~The duration of the contract must, at a minimum, be the time required to complete~~  
 7.23 ~~the planned systems. A contract must specify that the land occupier is liable for monetary~~  
 7.24 ~~damages and penalties in an amount up to 150 percent of the financial assistance received~~  
 7.25 ~~from the district, for failure to complete the systems or practices in a timely manner or~~  
 7.26 ~~maintain the systems or practices as specified in the contract.~~

7.27 (d) ~~A contract may provide for cooperation or funding with federal agencies. A land~~  
 7.28 ~~occupier or state agency may provide the cost-sharing portion of the contract through services~~  
 7.29 ~~in kind.~~

7.30 (e) (c) ~~The state board or the district board may not furnish any financial aid~~ assistance  
 7.31 for practices designed only to increase land productivity.

8.1 ~~(f)~~ (d) When a district ~~board~~ determines that long-term maintenance of a system or  
 8.2 practice is desirable, the district or the state board may require that maintenance be made  
 8.3 a covenant upon the land for the effective life of the practice. A covenant under this  
 8.4 subdivision shall be construed in the same manner as a conservation restriction under section  
 8.5 84.65.

8.6 Sec. 10. Minnesota Statutes 2022, section 103C.501, subdivision 6, is amended to read:

8.7 Subd. 6. **Policies and rules.** ~~(a)~~ The state board may adopt rules and shall adopt policies  
 8.8 prescribing:

8.9 (1) procedures and criteria for allocating funds ~~for cost-sharing contracts;~~ and

8.10 (2) standards and guidelines for ~~cost-sharing~~ implementing the conservation contracts;  
 8.11 program.

8.12 ~~(3) the scope and content of district comprehensive plans, plan amendments, and annual~~  
 8.13 ~~work plans;~~

8.14 ~~(4) standards and methods necessary to plan and implement a priority cost-sharing~~  
 8.15 ~~program, including guidelines to identify high priority erosion, sedimentation, and water~~  
 8.16 ~~quality problems and water quantity problems due to altered hydrology;~~

8.17 ~~(5) the share of the cost of conservation practices to be paid from cost-sharing funds;~~  
 8.18 ~~and~~

8.19 ~~(6) requirements for districts to document their efforts to identify and contact land~~  
 8.20 ~~occupiers with high priority problems.~~

8.21 ~~(b) The rules may provide that cost sharing may be used for windbreaks and shelterbelts~~  
 8.22 ~~for the purposes of energy conservation and snow protection.~~

8.23 Sec. 11. Minnesota Statutes 2022, section 103D.605, subdivision 5, is amended to read:

8.24 Subd. 5. **Establishment order.** After the project hearing, if the managers find that the  
 8.25 project will be conducive to public health, will promote the general welfare, and ~~is in~~  
 8.26 ~~compliance~~ complies with the watershed management plan and the provisions of this chapter,  
 8.27 the ~~board~~ managers must, by order, establish the project. The establishment order must  
 8.28 include the findings of the managers.



9.1 Sec. 12. [103F.06] SOIL HEALTH PRACTICES PROGRAM.

9.2 Subdivision 1. Definitions. (a) In this section, the following terms have the meanings  
9.3 given:

9.4 (1) "board" means the Board of Water and Soil Resources;

9.5 (2) "local units of government" has the meaning given under section 103B.305,  
9.6 subdivision 5; and

9.7 (3) "soil health" has the meaning given under section 103C.101, subdivision 10a.

9.8 Subd. 2. Establishment. (a) The board must administer a financial and technical support  
9.9 program to produce soil health practices that achieve water quality, soil productivity, climate  
9.10 change resiliency, or carbon sequestration benefits.

9.11 (b) The program must include but is not limited to no till, field borders, prairie strips,  
9.12 cover crops, and other practices sanctioned by the board or the United States Department  
9.13 of Agriculture's Natural Resources Conservation Service.

9.14 Subd. 3. Financial and technical assistance. (a) The board may provide financial and  
9.15 technical support to local units of government, private sector organizations, and farmers to  
9.16 establish soil health practices and related practices with climate and water-quality benefits.

9.17 (b) The board must establish practices and costs that are eligible for financial and technical  
9.18 support under this section.

9.19 Subd. 4. Program implementation. (a) The board may employ staff or enter into external  
9.20 agreements to implement this section.

9.21 (b) The board must assist local units of government in achieving the objectives of the  
9.22 program, including assessing practice standards and program effectiveness.

9.23 Subd. 5. Federal aid availability. The board must regularly review availability of federal  
9.24 funds and programs to supplement or complement state and other efforts consistent with  
9.25 the purposes of this section.

9.26 Subd. 6. Soil health practices. The board, in consultation with the commissioner of  
9.27 agriculture, may cooperate with the United States Department of Agriculture, other federal  
9.28 and state agencies, local governments, and private sector organizations to establish soil  
9.29 health goals for the state that will achieve water quality, soil productivity, climate change  
9.30 resiliency, and carbon sequestration benefits.

10.1 Sec. 13. Minnesota Statutes 2022, section 103F.505, is amended to read:

10.2 **103F.505 PURPOSE AND POLICY.**

10.3 (a) It is the purpose of sections 103F.505 to 103F.531 to restore certain marginal  
10.4 agricultural land and protect environmentally sensitive areas to:

10.5 (1) enhance soil and water quality;

10.6 (2) minimize damage to flood-prone areas;

10.7 (3) sequester carbon, ~~and;~~

10.8 (4) support native plant, fish, and wildlife habitats; and

10.9 (5) establish perennial vegetation.

10.10 (b) It is state policy to encourage ~~the~~:

10.11 (1) restoration of wetlands and riparian lands ~~and promote the retirement;~~

10.12 (2) restoration and protection of marginal, highly erodible land, particularly land adjacent  
10.13 to public waters, drainage systems, wetlands, and locally designated priority waters; and

10.14 (3) protection of environmentally sensitive areas, including wellhead protection areas,  
10.15 grasslands, peatlands, shorelands, and forest lands in priority areas.

10.16 Sec. 14. Minnesota Statutes 2022, section 103F.511, is amended by adding a subdivision  
10.17 to read:

10.18 Subd. 5a. **Grasslands.** "Grasslands" means landscapes that are or were formerly  
10.19 dominated by grasses, that have a low percentage of trees and shrubs, and that provide  
10.20 economic and ecosystem services such as grazing, wildlife habitat, carbon sequestration,  
10.21 and water filtration and retention.

10.22 Sec. 15. [103F.519] REINVEST IN MINNESOTA WORKING LANDS PROGRAM.

10.23 Subdivision 1. **Establishment.** The board may establish and administer a reinvest in  
10.24 Minnesota working lands program that is in addition to the program established under  
10.25 section 103F.515. Selecting land for the program must be based on the land's potential for:

10.26 (1) protecting or improving water quality;

10.27 (2) reducing erosion;

10.28 (3) improving soil health;

10.29 (4) reducing chemical inputs;

11.1 (5) improving carbon storage; and

11.2 (6) increasing biodiversity and habitat for fish, wildlife, and native plants.

11.3 Subd. 2. **Applicability.** Section 103F.515 applies to this section except as otherwise  
11.4 provided in subdivisions 1, 3, and 4.

11.5 Subd. 3. **Nature of property rights acquired.** Notwithstanding section 103F.515,  
11.6 subdivision 4, paragraph (a), the board may authorize haying and livestock grazing, perennial  
11.7 or winter annual cover crop production, forest management, or other activities that the board  
11.8 determines are consistent with section 103F.505 or appropriation conditions or criteria.

11.9 Subd. 4. **Payments for easements.** The board must establish payment rates for acquiring  
11.10 easements and for related practices. The board must consider market factors as well as  
11.11 easement terms, including length and allowable uses, when establishing rates.

11.12 Sec. 16. Minnesota Statutes 2022, section 103G.2242, subdivision 1, is amended to read:

11.13 Subdivision 1. **Rules.** (a) The board, in consultation with the commissioner, shall adopt  
11.14 rules governing the approval of wetland value replacement plans under this section and  
11.15 public-waters-work permits affecting public waters wetlands under section 103G.245. These  
11.16 rules must address the criteria, procedure, timing, and location of acceptable replacement  
11.17 of wetland values and may address the state establishment and administration of a wetland  
11.18 banking program for public and private projects, including provisions for an in-lieu fee  
11.19 program; mitigating and banking other water and water-related resources; the administrative,  
11.20 monitoring, and enforcement procedures to be used; and a procedure for the review and  
11.21 appeal of decisions under this section. In the case of peatlands, the replacement plan rules  
11.22 must consider the impact on carbon. Any in-lieu fee program established by the board must  
11.23 conform with Code of Federal Regulations, title 33, section 332.8, as amended.

11.24 (b) After the adoption of the rules, a replacement plan must be approved by a resolution  
11.25 of the governing body of the local government unit, consistent with the provisions of the  
11.26 rules or a comprehensive wetland protection and management plan approved under section  
11.27 103G.2243.

11.28 (c) If the local government unit fails to apply the rules, or fails to implement a local  
11.29 comprehensive wetland protection and management plan established under section  
11.30 103G.2243, the government unit is subject to penalty as determined by the board.

11.31 (d) When making a determination under rules adopted pursuant to this subdivision on  
11.32 whether a rare natural community will be permanently adversely affected, consideration of  
11.33 measures to mitigate any adverse effect on the community must be considered.

12.1 Sec. 17. **REPEALER.**

12.2 (a) Minnesota Statutes 2022, section 103C.501, subdivisions 2 and 3, are repealed.

12.3 (b) Minnesota Rules, parts 8400.0500; 8400.0550; 8400.0600, subparts 4 and 5;

12.4 8400.0900, subparts 1, 2, 4, and 5; 8400.1650; 8400.1700; 8400.1750; 8400.1800; and

12.5 8400.1900, are repealed.

**103C.501 COST-SHARING CONSERVATION CONTRACTS FOR EROSION CONTROL AND WATER MANAGEMENT.**

Subd. 2. **Request by district board.** A district board requesting funds of the state board must submit an application in a form prescribed by the board containing:

- (1) a comprehensive plan;
- (2) an annual work plan; and
- (3) an application for cost-sharing funds.

Subd. 3. **Approving application.** If the state board approves the comprehensive plan, including the plan's most recent amendment, the annual work plan, and the application of the district, the state board shall determine the specific amount of funds to allocate to the district for cost-sharing contracts.

**8400.0500 MAXIMUM COST-SHARE RATES.**

The maximum cost-share rates established by the state board represent the maximum percent or amount of the total cost of a conservation practice that may be funded using state cost-share funds.

**8400.0550 RECORDING CONSERVATION PRACTICES.**

The state board may determine that long-term maintenance of a conservation practice is desirable and may require that maintenance be made a covenant upon the land for the effective life of the practice. A covenant under this part shall be construed in the same manner as a conservation restriction under Minnesota Statutes, section 84.65.

**8400.0600 STATE BOARD ALLOCATION OF FUNDS TO DISTRICTS.**

Subp. 4. **Grants to districts.** The state board shall allocate cost-share funds to district boards that have fully complied with Minnesota Statutes, section 103C.501, subdivision 3; all erosion control and water management program rules; and program policies.

Subp. 5. **Other funds.** Other funds received by the state board may be allocated to districts for the treatment of erosion, sedimentation, water quality problems, or water quantity problems due to altered hydrology. These additional funds may be incorporated with existing erosion control and water management program funds and their use may be governed by the program policy or may be subject to other policies or guidelines required to fully implement the intent for which these additional funds were appropriated.

**8400.0900 DISTRICT ADMINISTRATION OF PROGRAM FUNDS.**

Subpart 1. **General.** Following receipt of grant funds from the state board, a district is responsible for administration of the funds in accordance with Minnesota Statutes, chapter 103C, parts 8400.0050 to 8400.1900, program policies, and all other applicable laws. All funds allocated to districts must be used for the purposes designated by the state board.

Subp. 2. **Maximum cost-share rate.** Prior to considering any applications from land occupiers for cost-share assistance, the district board shall establish cost-share rates for conservation practices to be installed under the program, up to the maximum rates established by the state board.

Subp. 4. **Criteria for district board review.** The district board shall use the factors in items A to D to determine practice eligibility and to review applications for conservation practice funding.

A. The application must be signed by the land occupier and the landowner, if different, indicating their agreement to:

(1) grant the district's representatives access to the parcel where the conservation practice will be located;

(2) obtain all permits required in conjunction with the installation and establishment of the practice prior to starting construction of the practice; and

(3) be responsible for operation and maintenance of conservation practices applied under this program according to an operation and maintenance plan prepared or approved by a district technical representative or the district's delegate.

B. Costs to repair damage to conservation practices installed with state cost-share dollars are eligible if the damage was caused by reasons beyond the control of the land occupier.

C. If the practice has fully met or exceeded its designed effective life, the cost to reconstruct the practice is eligible for cost-share assistance.

D. Conservation practices where construction has begun prior to district approval are ineligible for financial assistance. The board may waive this requirement for emergency needs.

Subp. 5. **Entering into contract.** After review of practice eligibility, the district board, or its delegate, shall approve or deny the application. If the application is approved, the district board, or its delegate, may enter into a contract with the land occupier.

#### **8400.1650 RECORDING CONSERVATION PRACTICES.**

When a district board, or its delegate, determines that long-term maintenance of a conservation practice is desirable, the board, or its delegate, may require that maintenance be made a covenant upon the land for the effective life of the conservation practice. A covenant under this part shall be construed in the same manner as a conservation restriction under Minnesota Statutes, section 84.65.

#### **8400.1700 MAINTENANCE.**

Subpart 1. **Land occupier maintenance responsibilities.** The land occupier is responsible for operation and maintenance of conservation practices applied under this program to ensure that their conservation objective is met and the effective life is achieved. Should the land occupier fail to maintain the conservation practices during their effective life, the land occupier is liable to the district for up to 150 percent of financial assistance received to install and establish the conservation practice. The land occupier is not liable for cost-share assistance received if the failure was caused by reasons beyond the land occupier's control, or if conservation practices are applied at the land occupier's expense which provide equivalent protection of the soil and water resources.

Subp. 2. **Reapplication of conservation practices.** In no case shall a district provide cost-share assistance to a land occupier for the reapplication of conservation practices which were removed by the land occupier during their effective life or that failed due to improper maintenance.

#### **8400.1750 PRACTICE SITE INSPECTIONS.**

The district or the district's delegate shall conduct site inspections of conservation practices installed with cost-share funds to determine if the land occupier is in compliance with the operation and maintenance requirements under part 8400.1700 and the policy, guidelines, and requirements of the state board.

#### **8400.1800 APPEALS.**

Land occupiers may appeal a district's action within 60 days of receiving notice of the action by submitting a written request to the district board asking the board to reconsider its decision. Should the land occupier and the district board reach an impasse, the land occupier may petition to appeal the district board's decision to the state board within 60 days of receiving notice of the district board's final decision. The state board or its executive director, as delegated, shall review and grant the petition, unless it is deemed without sufficient merit, within 30 days of the receipt of the petition. The state board shall make its decision on the appeal, if granted, within 60 days of a hearing date. The state board's decision may uphold, remand, reverse, or amend the decision of the district board.

#### **8400.1900 REPORTS TO STATE BOARD.**

For the purpose of reporting and monitoring the progress of the program and use of funds, each district shall submit an accomplishments report according to the guidelines and requirements established by the state board.