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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 2687

05/18/2017 Authored by Fabian, Hamilton, Poppe, Green, Anderson, P., and others
The bill was read for the first time and referred to the Committee on Environment and Natural Resources Policy and Finance

1.1 A bill for an act
1.2 relating to natural resources; clarifying public waters and public drainage system
1.3 laws; amending Minnesota Statutes 2016, sections 103E.701, subdivision 2;
1.4 103G.225; 103G.245, subdivision 2.

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

1.6 Section 1. Minnesota Statutes 2016, section 103E.701, subdivision 2, is amended to read:

1.7 Subd. 2. **Repairs affecting public waters.** (a) Where as-built records, reestablished
1.8 records under section 103E.101, subdivision 4a, or prior concurrence of the commissioner
1.9 exists, the drainage authority may proceed with a drainage system repair as provided in this
1.10 section without further concurrence, review, or permission of the commissioner under
1.11 section 103E.011, subdivision 3.

1.12 (b) Where as-built records, reestablished records under section 103E.101, subdivision
1.13 4a, or prior concurrence of the commissioner does not exist, before a repair is ordered, the
1.14 drainage authority must notify the commissioner if the repair ~~may affect~~ will be conducted
1.15 in, through, or adjacent to public waters. Notice to the commissioner must include the
1.16 proposed repair design and configuration. Within 60 days of notice, the commissioner must
1.17 concur or not concur that the proposed repair is, in fact, repair as provided in this section.
1.18 Failure of the commissioner to concur or not concur with the repair design and configuration
1.19 within 60 days is deemed concurrence. If the commissioner ~~disagrees~~ does not concur with
1.20 the repair ~~depth~~ design and configuration, the engineer, a representative appointed by the
1.21 director, and a soil and water conservation district technician must jointly determine the
1.22 repair ~~depth~~ allowed under this section using ~~soil borings, field surveys, and other available~~
1.23 ~~data or appropriate methods~~ existing records and evidence, including but not limited to
1.24 applicable aerial photographs, soil borings, test pits, culvert dimensions, invert elevations,

2.1 and bridge design records. Costs for determining the repair ~~depth~~ design and configuration  
 2.2 beyond the initial meeting must be shared equally by the drainage system and the  
 2.3 commissioner. The determined repair ~~depth~~ design and configuration must be recommended  
 2.4 to the drainage authority. The drainage authority may accept the joint recommendation and  
 2.5 proceed with the repair.

2.6 (c) The commissioner's concurrence with repair design and configuration or the drainage  
 2.7 authority acceptance of a repair design and configuration recommendation under this  
 2.8 subdivision constitutes permission of the commissioner under section 103E.011, subdivision  
 2.9 3.

2.10 Sec. 2. Minnesota Statutes 2016, section 103G.225, is amended to read:

2.11 **103G.225 STATE ~~WETLANDS~~ PUBLIC WATERS AND PUBLIC DRAINAGE**  
 2.12 **SYSTEMS.**

2.13 If the state ~~owns~~ has inventoried and designated public water courses, basins, or public  
 2.14 waters wetlands on or adjacent to existing public drainage systems, the state shall consider  
 2.15 the use of the public waters ~~wetlands~~ as part of the drainage system. If the commissioner's  
 2.16 desired management or protection of public waters ~~wetlands~~ interfere with or prevent the  
 2.17 authorized functioning of the public drainage system, the state shall provide for necessary  
 2.18 work to allow proper use and maintenance of the drainage system while still preserving the  
 2.19 public waters ~~wetlands~~.

2.20 Sec. 3. Minnesota Statutes 2016, section 103G.245, subdivision 2, is amended to read:

2.21 Subd. 2. **Exceptions.** A public-waters-work permit is not required for:

2.22 (1) work in altered natural watercourses that are part of drainage systems established  
 2.23 under chapter 103D or 103E if the work in the waters is undertaken according to chapter  
 2.24 103D or 103E;

2.25 (2) repair of a public drainage system lawfully established under chapters 103D and  
 2.26 103E and sponsored by the public drainage authority as provided in section 103E.701;

2.27 (3) a drainage project for a drainage system established under chapter 103E that does  
 2.28 not substantially affect public waters; or

2.29 ~~(3)~~ (4) culvert restoration or replacement of the same size and elevation, if the restoration  
 2.30 or replacement does not impact a designated trout stream.