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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 2827

03/13/2023 Authored by Wiens; Anderson, P. E., and Hudella
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; requiring the issuance or modification of groundwater
1.3 appropriation permits near White Bear Lake; requiring the development of
1.4 recommendations to ensure safe drinking water for east metropolitan communities
1.5 in a manner that supports both growth and sustainability; requiring a report;
1.6 amending Minnesota Statutes 2022, sections 103G.211; 103G.285, by adding a
1.7 subdivision; 103G.287, by adding subdivisions; 116B.03, subdivision 1; 116B.10,
1.8 by adding a subdivision.

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

1.10 Section 1. Minnesota Statutes 2022, section 103G.211, is amended to read:

1.11 103G.211 DRAINING PUBLIC WATERS PROHIBITED WITHOUT
1.12 REPLACEMENT.

1.13 (a) Except as provided in sections 103G.221 to 103G.235, public waters may not be
1.14 drained, and a permit authorizing drainage of public waters may not be issued, unless the
1.15 public waters to be drained are replaced by public waters that will have equal or greater
1.16 public value.

1.17 (b) Nothing in this section is to be construed to prevent the commissioner from issuing
1.18 or amending a water-use permit for appropriation from groundwater where:

1.19 (1) the application is for a new groundwater well or to increase appropriation amounts
1.20 under an existing permit;

1.21 (2) the applicant is a municipality wholly or partially located within a five-mile radius
1.22 of White Bear Lake; and

2.1 (3) the amount of water to be appropriated under the proposal is consistent with the
 2.2 amount anticipated to be needed by the applicant each year according to a water supply
 2.3 plan approved by the commissioner under section 103G.291 before 2021.

2.4 (c) Paragraph (b) and this paragraph expire January 1, 2041.

2.5 **EFFECTIVE DATE.** This section is effective the day following final enactment and
 2.6 applies to applications for new or modified permits filed on or after that date.

2.7 Sec. 2. Minnesota Statutes 2022, section 103G.285, is amended by adding a subdivision
 2.8 to read:

2.9 Subd. 7. **Application.** (a) Nothing in this section is to be construed to prevent the
 2.10 commissioner from issuing or amending a water-use permit for appropriation from
 2.11 groundwater where:

2.12 (1) the application is for a new groundwater well or to increase appropriation amounts
 2.13 under an existing permit;

2.14 (2) the applicant is a municipality wholly or partially located within a five-mile radius
 2.15 of White Bear Lake; and

2.16 (3) the amount of water to be appropriated under the proposal is consistent with the
 2.17 amount anticipated to be needed by the applicant each year according to a water supply
 2.18 plan approved by the commissioner under section 103G.291 before 2021.

2.19 (b) This subdivision expires January 1, 2041.

2.20 **EFFECTIVE DATE.** This section is effective the day following final enactment and
 2.21 applies to applications for new or modified permits filed on or after that date.

2.22 Sec. 3. Minnesota Statutes 2022, section 103G.287, is amended by adding a subdivision
 2.23 to read:

2.24 Subd. 6. **Application.** (a) Nothing in this section is to be construed to prevent the
 2.25 commissioner from issuing or amending a water-use permit for appropriation from
 2.26 groundwater where:

2.27 (1) the application is for a new groundwater well or to increase appropriation amounts
 2.28 under an existing permit;

2.29 (2) the applicant is a municipality wholly or partially located within a five-mile radius
 2.30 of White Bear Lake; and

3.1 (3) the amount of water to be appropriated under the proposal is consistent with the
 3.2 amount anticipated to be needed by the applicant each year according to a water supply
 3.3 plan approved by the commissioner under section 103G.291 before 2021.

3.4 (b) This subdivision expires January 1, 2041.

3.5 **EFFECTIVE DATE.** This section is effective the day following final enactment and
 3.6 applies to applications for new or modified permits filed on or after that date.

3.7 Sec. 4. Minnesota Statutes 2022, section 103G.287, is amended by adding a subdivision
 3.8 to read:

3.9 Subd. 7. **Issuance of certain permits.** (a) Notwithstanding any other provision of law,
 3.10 the commissioner must issue a water-use permit for appropriation from groundwater that
 3.11 meets the criteria of subdivision 6. Nothing in this subdivision is to be construed to prohibit
 3.12 the commissioner from imposing conditions on the permit so long as the conditions do not
 3.13 prevent the applicant from appropriating the amount of groundwater applied for.

3.14 (b) This subdivision expires January 1, 2041.

3.15 **EFFECTIVE DATE.** This section is effective the day following final enactment and
 3.16 applies to applications for new or modified permits filed on or after that date.

3.17 Sec. 5. Minnesota Statutes 2022, section 116B.03, subdivision 1, is amended to read:

3.18 Subdivision 1. **Parties.** Any person residing within the state; the attorney general; any
 3.19 political subdivision of the state; any instrumentality or agency of the state or of a political
 3.20 subdivision thereof; or any partnership, corporation, association, organization, or other
 3.21 entity having shareholders, members, partners or employees residing within the state may
 3.22 maintain a civil action in the district court for declaratory or equitable relief in the name of
 3.23 the state of Minnesota against any person, for the protection of the air, water, land, or other
 3.24 natural resources located within the state, whether publicly or privately owned, from
 3.25 pollution, impairment, or destruction; provided, however, that no action ~~shall be~~ is allowable
 3.26 ~~hereunder~~ under this section for:

3.27 (1) acts taken by a person on land leased or owned by said person pursuant to a permit
 3.28 or license issued by the owner of the land to said person which do not and can not reasonably
 3.29 be expected to pollute, impair, or destroy any other air, water, land, or other natural resources
 3.30 located within the state; ~~provided further that no action shall be allowable under this section~~
 3.31 for

4.1 (2) conduct taken by a person pursuant to any environmental quality standard, limitation,
 4.2 rule, order, license, stipulation agreement or permit issued by the Pollution Control Agency,
 4.3 Department of Natural Resources, Department of Health or Department of Agriculture-; or

4.4 (3) issuance of a groundwater appropriation permit that meets the criteria under section
 4.5 103G.287, subdivision 6, by the Department of Natural Resources. This clause expires
 4.6 January 1, 2041.

4.7 **EFFECTIVE DATE.** This section is effective the day following final enactment and
 4.8 applies to applications for new or modified permits filed on or after that date.

4.9 Sec. 6. Minnesota Statutes 2022, section 116B.10, is amended by adding a subdivision to
 4.10 read:

4.11 Subd. 6. **Application.** No action is allowable under this section for issuance of a
 4.12 groundwater appropriation permit that meets the criteria under section 103G.287, subdivision
 4.13 6, by the Department of Natural Resources. This subdivision expires January 1, 2041.

4.14 **EFFECTIVE DATE.** This section is effective the day following final enactment and
 4.15 applies to applications for new or modified permits filed on or after that date.

4.16 Sec. 7. **ENSURING SUSTAINABLE GROUNDWATER LEVELS IN WHITE BEAR**
 4.17 **LAKE AND RELATED AQUIFERS.**

4.18 The commissioner of natural resources, in cooperation with the commissioner of health,
 4.19 the Metropolitan Council, and representatives of east metropolitan area municipalities, must
 4.20 explore available options for supplying east metropolitan area communities with safe drinking
 4.21 water in a manner that allows municipal growth while simultaneously ensuring the
 4.22 sustainability and quality of the state's water resources in and around White Bear Lake and
 4.23 neighboring aquifers. By October 1, 2024, the commissioner must report findings and
 4.24 recommendations to the chairs and ranking minority members of the legislative committees
 4.25 and divisions with jurisdiction over environment and natural resources.

4.26 Sec. 8. **CONTINUATION OF OTHER WATER APPROPRIATION PERMITS.**

4.27 Before additional rulemaking or legislative action in response to the findings and
 4.28 recommendations submitted under section 7, the commissioner of natural resources must
 4.29 not reduce appropriations under a groundwater appropriations permit, terminate groundwater
 4.30 appropriations authorized by a permit, or decline to renew a groundwater appropriations
 4.31 permit where:

- 5.1 (1) the permit was in effect as of December 31, 2021;
- 5.2 (2) the permit authorized appropriation of groundwater from a site located wholly or
5.3 partially within a five-mile radius of White Bear Lake;
- 5.4 (3) the permittee is in compliance with applicable permit terms; and
- 5.5 (4) the permittee is not a municipality.