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State of Minnesota

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HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 3422

- 03/08/2018 Authored by Fabian
- The bill was read for the first time and referred to the Committee on Environment and Natural Resources Policy and Finance
- 03/19/2018 Adoption of Report: Placed on the General Register as Amended
- Read for the Second Time
- 05/14/2018 Calendar for the Day
- Read for the Third Time
- Passed by the House and transmitted to the Senate
- 05/18/2018 Returned to the House as Amended by the Senate
- Refused to concur and a Conference Committee was appointed
- 05/20/2018 Read Third Time as Amended by Conference and repassed by the House
- Read Third Time as Amended by Conference and repassed by the Senate
- 05/21/2018 Presented to Governor
- 05/30/2018 Governor Veto

1.1 A bill for an act

1.2 relating to environment; modifying wild rice water quality standards; establishing

1.3 a wild rice work group; requiring a report; appropriating money; amending Laws

1.4 2015, First Special Session chapter 4, article 4, section 136, as amended.

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

1.6 Section 1. Laws 2015, First Special Session chapter 4, article 4, section 136, as amended

1.7 by Laws 2017, chapter 93, article 2, section 149, is amended to read:

1.8 Sec. 136. **WILD RICE WATER QUALITY STANDARDS.**

1.9 (a) Until cost-effective treatment technology, as defined in paragraph (b), is available

1.10 and the commissioner of the Pollution Control Agency amends rules refining the wild rice

1.11 water quality standard in Minnesota Rules, part 7050.0224, subpart 2, to consider all

1.12 independent research and publicly funded research and to include criteria for identifying

1.13 waters and a list of waters subject to the standard, implementation of the wild rice water

1.14 quality standard in Minnesota Rules, part 7050.0224, subpart 2, shall be limited to the

1.15 following, unless the permittee requests additional conditions:

1.16 (1) when issuing, modifying, or renewing national pollutant discharge elimination system

1.17 (NPDES) or state disposal system (SDS) permits, the agency shall endeavor to protect wild

1.18 rice, and in doing so shall be limited by the following conditions:

1.19 (i) the agency shall not require permittees or applicants to expend money for design or

1.20 implementation of sulfate treatment technologies or other forms of sulfate mitigation; and

1.21 (ii) the agency may require sulfate minimization plans in permits, but the plans must

1.22 not violate any limitation of this section; and

2.1 (2) the agency shall not list waters containing natural beds of wild rice as impaired for
2.2 sulfate under section 303(d) of the federal Clean Water Act, United States Code, title 33,
2.3 section 1313, until the rulemaking described in this paragraph takes effect: and the water
2.4 has been evaluated for all conditions affecting the propagation and maintenance of wild
2.5 rice, including water level; pollutant concentrations; conditions created by the presence and
2.6 activity of wildlife, flora, fauna, and fish; and other conditions or factors.

2.7 ~~(b) Upon the rule described in paragraph (a) taking effect, the agency may reopen permits~~
2.8 ~~issued or reissued after the effective date of this section as needed to include numeric permit~~
2.9 ~~limits based on the wild rice water quality standard. Cost-effective treatment technology~~
2.10 ~~must be determined by the commissioner through an economic analysis of the cost to~~
2.11 ~~businesses or communities of installing and operating sulfate treatment. The economic~~
2.12 ~~analysis must include the following factors:~~

2.13 (1) impacts to rate payers and profitability;

2.14 (2) viability of a local facility of a parent organization;

2.15 (3) impacts to regional employment;

2.16 (4) availability of public funding, grants, or loans; and

2.17 (5) effects of disposal and energy costs associated with treatment.

2.18 (c) Every two years after the date of the initial economic analysis prepared under
2.19 paragraph (b), the commissioner must publish a report reviewing the state of sulfate treatment
2.20 technology, evaluating the cost effectiveness of available technology, identifying public
2.21 financial assistance available to permittees, and making a specific determination whether
2.22 the net cost of technologies currently available may be cost effective for permittees. A draft
2.23 report must be made available for public comment for at least 60 days prior to the final
2.24 publication.

2.25 ~~(e) The commissioner shall complete the rulemaking described in paragraph (a) by~~
2.26 ~~January 15, 2019.~~

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

2.28 Sec. 2. **WILD RICE WORK GROUP; REPORT.**

2.29 (a) A wild rice work group is established. The governor must appoint to the work group
2.30 representatives of Minnesota tribal governments nominated by those governments, one
2.31 representative from the University of Minnesota, one representative from an environmental
2.32 nongovernmental organization, and one independent scientific expert in wild rice research

3.1 and one independent scientific expert in plant-based aquatic toxicology. The chairs of the
3.2 legislative committees and divisions with jurisdiction over environment and natural resources
3.3 must appoint one representative from the ferrous mining industry, a municipal discharger,
3.4 an electric utility, a non-Minnesota university or academic institution, and one independent
3.5 scientific expert in wild rice research and one independent scientific expert in plant-based
3.6 aquatic toxicology. The commissioners of natural resources and the Pollution Control
3.7 Agency must each appoint one person from their respective entity to serve as an ex officio
3.8 member of the work group.

3.9 (b) \$500,000 in fiscal year 2018 is appropriated from the heritage enhancement account
3.10 in the game and fish fund to the commissioner of natural resources for wild rice protection,
3.11 restoration, and enhancement. Of this amount, up to \$200,000 may be used to support the
3.12 work of the wild rice work group. Any remaining money may be spent to carry out the
3.13 recommended actions outlined in the report to protect, restore, and enhance the naturally
3.14 occurring wild rice in the public waters of Minnesota. This is a onetime appropriation and
3.15 is available until June 30, 2020.

3.16 (c) The wild rice work group must submit a report to the state's tribal governments and
3.17 the chairs and ranking minority members of the house of representatives and senate
3.18 committees and divisions with jurisdiction over the environment and natural resources by
3.19 January 15, 2019, that:

3.20 (1) includes tailored restoration activities to improve natural wild rice health in priority
3.21 wild rice water bodies and to monitor the effectiveness of restoration and protection activities;

3.22 (2) identifies ways to increase intensive natural wild-rice lake management efforts and
3.23 accelerates the restoration of wild rice stands within its historic range;

3.24 (3) identifies areas in which to implement the best management practices;

3.25 (4) provides recommendations for the creation of a long-term wild rice work group,
3.26 including membership structure, to advise the commissioner on natural wild rice management;

3.27 (5) provides recommendations for state and local funding to permittees and applicants
3.28 to support data collection and research, restoration and protection activities, best management
3.29 practices, sulfate minimization plans, and the installation of cost-effective treatment
3.30 technologies; and

3.31 (6) includes data about the condition of wild-rice waters downstream of permitted
3.32 dischargers.

4.1 (d) After completing the tasks identified in paragraph (c), the work group must prepare
4.2 recommendations to the commissioner by December 15, 2019, to improve regulation of
4.3 wastewater discharges as necessary to protect wild rice. The work group must evaluate the
4.4 impacts of sulfate or other sulfur compounds to wild rice in these waters. The work group
4.5 must be limited to the evaluation of sulfate impacts on wild rice and must not evaluate other
4.6 potential sulfate-related impacts to the environment. The work group must review existing
4.7 studies and papers, both state-sponsored and otherwise, to determine the following:

4.8 (1) how sulfate impacts wild rice including the life stage or stages impacted;

4.9 (2) the mechanism or mechanisms by which sulfate impacts wild rice;

4.10 (3) a list of waters showing wild rice densities and corresponding sulfate values for each
4.11 water;

4.12 (4) an examination of conditions that may mitigate the toxicity of sulfide or sulfate to
4.13 wild rice, including biological or chemical adaptations by the wild rice plant;

4.14 (5) the number of acres of wild-rice waters to be restored or retained by enforcing a
4.15 sulfate standard;

4.16 (6) the reasonable and necessary concentration of sulfate to protect wild rice; and

4.17 (7) criteria for identifying and an appropriate list of wild-rice waters that should be
4.18 considered for listing as wild-rice waters in any subsequent rulemaking under Minnesota
4.19 Rules, chapter 7050.

4.20 (e) Upon receipt of the recommendations described in paragraph (d), the commissioner
4.21 of the Pollution Control Agency must prepare a recommendation to the legislature reflecting
4.22 the work group recommendations. The commissioner's recommendation must include any
4.23 proposed rule language which the commissioner determines is appropriate to implement
4.24 the work group recommendations.

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