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State of Minnesota
HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 3836

03/15/2018 Authored by Torkelson

The bill was read for the first time and referred to the Committee on Agriculture Policy

03/26/2018 Adoption of Report: Amended and re-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; modifying conditions for agricultural best management

1.3 practice loans to include environmental service providers; modifying drainage law

1.4 to accelerate ditch buffer strip implementation; providing a runoff and sediment

1.5 delivery option for repair charges; amending Minnesota Statutes 2016, sections

1.6 17.117, subdivisions 1, 4, 11; 103E.005, by adding subdivisions; 103E.021,

1.7 subdivision 6; 103E.071; 103E.095; 103E.215, subdivision 5; 103E.351, subdivision

1.8 1; 103E.401, subdivision 4; 103E.411, subdivision 5; 103E.615, subdivisions 1,

1.9 2, 3, 5, 7; 103E.711, subdivision 1; 103E.715, subdivisions 4, 5; 103E.725;

1.10 103E.728, subdivisions 1, 2, by adding a subdivision; 103E.731, subdivisions 1,

1.11 2, 6; 103E.735, subdivision 1.

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

1.13 ARTICLE 1

1.14 ACCELERATED BUFFER STRIP IMPLEMENTATION

1.15 Section 1. Minnesota Statutes 2016, section 17.117, subdivision 1, is amended to read:

1.16 Subdivision 1. **Purpose.** The purpose of the agriculture best management practices loan

1.17 program is to provide low or no interest financing to farmers, agriculture supply businesses,

1.18 ~~rural landowners, and water-quality cooperatives~~ approved environmental service providers

1.19 for the implementation of agriculture and other best management practices that reduce

1.20 environmental pollution.

1.21 Sec. 2. Minnesota Statutes 2016, section 17.117, subdivision 4, is amended to read:

1.22 Subd. 4. **Definitions.** (a) For the purposes of this section, the terms defined in this

1.23 subdivision have the meanings given them.

1.24 (b) "Agricultural and environmental revolving accounts" means accounts in the

1.25 agricultural fund, controlled by the commissioner, which hold funds available to the program.

(c) "Agriculture supply business" means a person, partnership, joint venture, corporation, limited liability company, association, firm, public service company, or cooperative that provides materials, equipment, or services to farmers or agriculture-related enterprises.

(d) "Allocation" means the funds awarded to an applicant for implementation of best management practices through a competitive or noncompetitive application process.

(e) "Applicant" means a local unit of government eligible to participate in this program that requests an allocation of funds as provided in subdivision 6b.

(f) "Best management practices" has the meaning given in sections 103F.711, subdivision 3, and 103H.151, subdivision 2. Best management practices also means other practices, techniques, and measures that have been demonstrated to the satisfaction of the commissioner: (1) to prevent or reduce adverse environmental impacts by using the most effective and practicable means of achieving environmental goals; or (2) to achieve drinking water quality standards under chapter 103H or under Code of Federal Regulations, title 40, parts 141 and 143, as amended.

(g) "Borrower" means a farmer, an agriculture supply business, ~~or a rural~~ a landowner, or an approved environmental service provider applying for a low-interest loan.

(h) "Commissioner" means the commissioner of agriculture, including when the commissioner is acting in the capacity of chair of the Rural Finance Authority, or the designee of the commissioner.

(i) "Committed project" means an eligible project scheduled to be implemented at a future date:

~~(1) that has been approved and certified by the local government unit; and~~

~~(2) for which a local lender has obligated itself to offer a loan.~~

(j) "Comprehensive water management plan" means a state-approved and locally adopted plan authorized under section 103B.231, 103B.255, 103B.311, 103C.331, 103D.401, or 103D.405.

(k) "Cost incurred" means expenses for implementation of a project accrued because the borrower has agreed to purchase equipment or is obligated to pay for services or materials already provided as a result of implementing an approved eligible project.

(l) "Environmental service providers" means public or private organizations and businesses approved by the commissioner that provide services or materials for implementation of eligible best management practices for, or on behalf of, eligible individuals

or multiple individuals, including but not limited to drainage authorities, watershed districts, municipalities, counties, water-quality cooperatives, or private businesses providing environment-related services or materials, except as expressly limited in this section.

~~(H)~~ (m) "Farmer" means a person, partnership, joint venture, corporation, limited liability company, association, firm, public service company, or cooperative that regularly participates in physical labor or operations management of farming and files a Schedule F as part of filing United States Internal Revenue Service Form 1040 or indicates farming as the primary business activity under Schedule C, K, or S, or any other applicable report to the United States Internal Revenue Service.

(n) "Landowner" means the owner of record of Minnesota real estate on which the project is located.

~~(m)~~ (o) "Lender agreement" means an agreement entered into between the commissioner and a local lender which contains terms and conditions of participation in the program.

~~(n)~~ (p) "Local government unit" means a county, soil and water conservation district, or an organization formed for the joint exercise of powers under section 471.59 with the authority to participate in the program.

~~(o)~~ (q) "Local lender" means a local government unit as defined in paragraph ~~(n)~~ (p), a local municipality or county with taxing or special assessment authority, a watershed district, a drainage authority, a township, a state or federally chartered bank, a savings association, a state or federal credit union, Agribank and its affiliated organizations, or a nonprofit economic development organization or other financial lending institution approved by the commissioner.

~~(p)~~ (r) "Local revolving loan account" means the account held by a local government unit and a local lender into which principal repayments from borrowers are deposited and new loans are issued in accordance with the requirements of the program and lender agreements.

~~(q)~~ (s) "Nonpoint source" has the meaning given in section 103F.711, subdivision 6.

~~(r)~~ (t) "Program" means the agriculture best management practices loan program in this section.

~~(s)~~ (u) "Project" means one or more components or activities located within Minnesota that are required by the local government unit to be implemented for satisfactory completion of an eligible best management practice.

~~(t) "Rural landowner" means the owner of record of Minnesota real estate located in an area determined by the local government unit to be rural after consideration of local land use patterns, zoning regulations, jurisdictional boundaries, local community definitions, historical uses, and other pertinent local factors.~~

~~(u) "Water quality cooperative" has the meaning given in section 115.58, paragraph (d), except as expressly limited in this section.~~

Sec. 3. Minnesota Statutes 2016, section 17.117, subdivision 11, is amended to read:

Subd. 11. **Loans issued to borrower.** (a) Local lenders may issue loans only for projects that are approved and certified by the local government unit as meeting priority needs identified in a comprehensive water management plan or other local planning documents, are in compliance with accepted practices, standards, specifications, or criteria, and are eligible for financing under Environmental Protection Agency or other applicable guidelines.

(b) The local lender may use any additional criteria considered necessary to determine the eligibility of borrowers for loans.

(c) Local lenders shall set the terms and conditions of loans to borrowers, except that:

(1) no loan to a borrower may exceed \$200,000;

(2) no loan for a project may exceed \$200,000; and

(3) no borrower shall, at any time, have multiple loans from this program with a total outstanding loan balance of more than \$200,000.

(d) The maximum term length for projects in this paragraph is ten years.

(e) Fees charged at the time of closing must:

(1) be in compliance with normal and customary practices of the local lender;

(2) be in accordance with published fee schedules issued by the local lender;

(3) not be based on participation program; and

(4) be consistent with fees charged other similar types of loans offered by the local lender.

(f) The interest rate assessed to an outstanding loan balance by the local lender must not exceed three percent per year.

(g) Environmental service providers may request loans to finance projects implemented on behalf of multiple eligible individuals in excess of the limits in paragraph (c), not to

5.1 exceed the total of the number of represented landowners multiplied by the limit in paragraph
5.2 (c), clause (1).

5.3 Sec. 4. Minnesota Statutes 2016, section 103E.021, subdivision 6, is amended to read:

5.4 Subd. 6. **Incremental ~~implementation~~ establishment of vegetated ditch buffer strips**
5.5 **and side inlet controls.** (a) Notwithstanding other provisions of this chapter requiring
5.6 appointment of viewers and redetermination of benefits and damages, a drainage authority
5.7 may ~~implement~~ make findings and order the establishment of permanent buffer strips of
5.8 perennial vegetation ~~approved by the drainage authority~~ or side inlet controls, or both,
5.9 adjacent to a public drainage ditch, where necessary to control erosion and sedimentation,
5.10 improve water quality, or maintain the efficiency of the drainage system. The drainage
5.11 authority's finding that the establishment of permanent buffer strips of perennial vegetation
5.12 or side inlet controls is necessary to control erosion and sedimentation, improve water
5.13 quality, or maintain the efficiency of the drainage system is sufficient to confer jurisdiction
5.14 under this subdivision. Preference should be given to planting native species of a local
5.15 ecotype. The approved perennial vegetation shall not impede future maintenance of the
5.16 ditch. The permanent strips of perennial vegetation shall be 16-1/2 feet in width measured
5.17 outward from the top edge of the existing constructed channel. Drainage system rights-of-way
5.18 for the acreage and additional property required for the permanent strips must be acquired
5.19 by the authority having jurisdiction.

5.20 (b) A project under this subdivision shall be implemented as a repair according to section
5.21 103E.705, except that the drainage authority may appoint an engineer to examine the drainage
5.22 system and prepare an engineer's repair report for the project.

5.23 (c) Damages shall be determined by the drainage authority, or viewers, appointed by
5.24 the drainage authority, according to section 103E.315, subdivision 8. A damages statement
5.25 shall be prepared, including an explanation of how the damages were determined for each
5.26 property affected by the project, and filed with the auditor or watershed district. Within 30
5.27 days after the damages statement is filed, the auditor or watershed district shall prepare
5.28 property owners' reports according to section 103E.323, subdivision 1, clauses (1), (2), (6),
5.29 (7), and (8), and mail a copy of the property owner's report and damages statement to each
5.30 owner of property affected by the proposed project.

5.31 (d) After a damages statement is filed, the drainage authority shall set a time, by order,
5.32 not more than 30 days after the date of the order, for a hearing on the project. At least ten
5.33 days before the hearing, the auditor or watershed district shall give notice by mail of the

time and location of the hearing to the owners of property and political subdivisions likely to be affected by the project.

(e) The drainage authority shall make findings and order the repairs to be made if the drainage authority determines from the evidence presented at the hearing and by the viewers and engineer, if appointed, that the repairs are necessary for the drainage system and the costs of the repairs are within the limitations of section 103E.705.

Sec. 5. Minnesota Statutes 2016, section 103E.071, is amended to read:

103E.071 COUNTY ATTORNEY.

The county attorney shall represent the county in all drainage proceedings and related matters without special compensation, except as provided in section 388.09, subdivision 1. A county attorney, the county attorney's assistant, or any attorney associated with the county attorney in business, may not otherwise appear in any drainage proceeding for any interested person.

Sec. 6. Minnesota Statutes 2016, section 103E.351, subdivision 1, is amended to read:

Subdivision 1. **Conditions to redetermine benefits and damages; appointment of viewers.** If the drainage authority determines that the ~~original~~ benefits or damages of record determined in a drainage proceeding do not reflect reasonable present day land values or that the benefited or damaged areas have changed, or if more than ~~50~~ 26 percent of the owners of property, or owners of 26 percent of the property, benefited or damaged by a drainage system petition for ~~correction of an error that was made at the time of the proceedings that established the drainage system~~ a redetermination of benefits and damages, the drainage authority may appoint three viewers to redetermine and report the benefits and damages and the benefited and damaged areas.

Sec. 7. **PUBLIC DRAINAGE DITCH BUFFER STRIP; PLANTING AND MAINTENANCE.**

With the consent of the property owner where the drainage ditch buffer will be located, a drainage authority, as defined in Minnesota Statutes, section 103E.005, subdivision 9, may plant and maintain 16-1/2-foot ditch buffer strips that meet the width and vegetation requirements of Minnesota Statutes, section 103E.021, before acquiring and compensating for the buffer strip land rights according to Minnesota Statutes, chapter 103E. Planting and maintenance costs may be paid in accordance with Minnesota Statutes, chapter 103E. This section expires June 30, 2019.

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

7.2 **ARTICLE 2**

7.3 **ACCELERATED RUNOFF AND SEDIMENT DELIVERY OPTION**

7.4 Section 1. Minnesota Statutes 2016, section 103E.005, is amended by adding a subdivision
7.5 to read:

7.6 Subd. 27a. **Relative runoff.** "Relative runoff" includes the surface and subsurface runoff
7.7 potential from a specific property compared on an equitable basis to all other properties
7.8 contributing runoff to the drainage system.

7.9 Sec. 2. Minnesota Statutes 2016, section 103E.005, is amended by adding a subdivision
7.10 to read:

7.11 Subd. 27b. **Relative sediment delivery.** "Relative sediment delivery" means the sediment
7.12 delivery potential from a specific property compared on an equitable basis to all other
7.13 properties contributing runoff to the drainage system.

7.14 Sec. 3. Minnesota Statutes 2016, section 103E.095, is amended to read:

7.15 **103E.095 APPEAL FROM ORDERS OF AN ORDER DISMISSING OR**
7.16 **ESTABLISHING A DRAINAGE SYSTEMS PROJECT, OR OF A REPAIR COST**
7.17 **APPORTIONMENT REPORT.**

7.18 Subdivision 1. **Notice of appeal.** A party may appeal an order made by the board that
7.19 dismisses drainage project proceedings or, establishes or refuses to establish a drainage
7.20 project, or approves a repair cost apportionment report to the district court of the county
7.21 where the drainage proceedings or drainage system repair are pending. The appellant must
7.22 serve notice of the appeal to the auditor or secretary within 30 days after the order is filed.
7.23 ~~After notice of the appeal is served, the appeal may be brought to trial by the appellant or~~
7.24 ~~the drainage authority after notifying the other party at least ten days before the trial date.~~

7.25 Subd. 2. **Trial.** The appeal must be tried by the court without a jury. The court shall
7.26 examine the entire drainage proceeding and related matters and receive evidence to determine
7.27 whether the findings made by the board can be sustained. At the trial the findings made by
7.28 the board are prima facie evidence of the matters stated in the findings, and the board's order
7.29 is prima facie reasonable. If the court finds that the order appealed is lawful and reasonable,
7.30 it shall be affirmed. If the court finds that the order appealed is arbitrary, unlawful, or not
7.31 supported by the evidence, it shall make an order, justified by the court record, to take the

place of the appealed order or repair cost apportionment report, or remand the order or report to the board for further proceedings. After the appeal has been determined by the court, the board shall proceed in conformity with the court order.

Subd. 3. **Determination of benefits and damages after court order.** If the order establishing a drainage project is appealed, the trial of appeals related to benefits or damages in the drainage proceeding must be stayed until the establishment appeal is determined. If the order establishing the drainage project is affirmed, appeals related to benefits and damages must then be tried.

Subd. 4. **Procedure if appeal order establishes drainage project.** If an order refusing to establish a drainage project is appealed, and the court, by order, establishes the drainage project, the auditor shall give notice by publication of the filed order. The notice is sufficient if it refers to the drainage project or system by number or other descriptive designation, states the meaning of the order, and states the date the court order was filed. A person may appeal the establishment order to the district court as provided in this section.

Subd. 5. **Appeal of appellate order.** A party aggrieved by a final order or judgment rendered on appeal to the district court may appeal as in other civil cases. The appeal must be made and perfected within 30 days after the filing of the order or entry of judgment.

Sec. 4. Minnesota Statutes 2016, section 103E.215, subdivision 5, is amended to read:

Subd. 5. **Subsequent proceedings.** When a petition and the bond required by section 103E.202 are filed, the auditor shall present the petition to the board at its next meeting or, for a joint county drainage system, to the joint county drainage authority within ten days after the petition is filed. The drainage authority shall appoint an engineer to examine the drainage system and make an improvement report. The improvement proceedings must be conducted under this chapter as provided for the original proceedings for the establishment of a drainage project. The benefits and damages determined must be as a result of the proposed improvement. ~~Assessments for the repair of the improvement must be based on the benefits determined for the improvement.~~

Sec. 5. Minnesota Statutes 2016, section 103E.401, subdivision 4, is amended to read:

Subd. 4. **Hearing.** At the hearing the drainage authority shall consider the capacity of the outlet drainage system. If express authority is given to use the drainage system as an outlet, the drainage authority shall state, by order, the terms and conditions for use of the established drainage system as an outlet and shall set the amount to be paid as an outlet fee. The order must describe the property to be benefited by the drainage system and must state

the amount of benefits to the property for the outlet. The property benefited is liable for repair assessments levied after that time in the drainage system, ~~on the basis of the benefits as if the benefits had been determined in the order establishing the drainage system in~~ accordance with section 103E.728.

Sec. 6. Minnesota Statutes 2016, section 103E.411, subdivision 5, is amended to read:

Subd. 5. **Benefits and assessments if drainage system established.** If the drainage system is established, the drainage authority must determine the amount the municipality must pay for the privilege of using the drainage system as an outlet. The amount must be paid to the ~~affected counties~~ drainage authority and credited to the account of the drainage system used as an outlet. The municipality is liable for all subsequent liens and assessments for the repair and maintenance of the drainage system ~~in proportion to the benefits, as though the benefits were determined in the order establishing the drainage system~~ accordance with section 103E.728.

Sec. 7. Minnesota Statutes 2016, section 103E.615, subdivision 1, is amended to read:

Subdivision 1. **Municipalities.** Assessments filed ~~for benefits~~ to a municipality are a liability of the municipality and are due and payable with interest in installments on November 1 of each year as provided in section 103E.611. If the installments and interest are not paid on or before November 1, the amount due with interest added as provided in section 103E.611 must be extended by the county auditor against all property in the municipality that is liable to taxation. A levy must be made and the amount due must be paid and collected in the same manner and time as other taxes.

Sec. 8. Minnesota Statutes 2016, section 103E.615, subdivision 2, is amended to read:

Subd. 2. **County or state-aid road.** If a public road ~~benefited~~ assessed is a county or state-aid road, the assessment filed is against the county and must be paid out of the road and bridge fund of the county.

Sec. 9. Minnesota Statutes 2016, section 103E.615, subdivision 3, is amended to read:

Subd. 3. **State trunk highway.** An assessment against the state ~~for benefits~~ to trunk highways is chargeable to and payable out of the trunk highway fund. The commissioner of transportation shall pay assessments from the trunk highway fund after receipt of a certified copy of the assessment against the state ~~for benefits~~ to a trunk highway.

10.1 Sec. 10. Minnesota Statutes 2016, section 103E.615, subdivision 5, is amended to read:

10.2 Subd. 5. **State property.** State property, including rural credit property, is assessable
10.3 for benefits received, or repair costs in accordance with section 103E.728. The assessment
10.4 must be paid by the state from funds appropriated and available for drainage assessments
10.5 after the state officer having jurisdiction over the assessed property certifies the assessment
10.6 to the commissioner of management and budget.

10.7 Sec. 11. Minnesota Statutes 2016, section 103E.615, subdivision 7, is amended to read:

10.8 Subd. 7. **Railroad and utility property.** Property owned by a railroad or other utility
10.9 corporation benefited by a drainage project is liable for the assessments ~~of~~ for benefits on
10.10 the property, and for repair costs apportioned in accordance with section 103E.728, as other
10.11 taxable property. From the date the drainage lien is recorded, the amount of the assessment
10.12 with interest is a lien against all property of the corporation within the county. Upon default
10.13 the assessment may be collected by civil action or the drainage lien may be foreclosed by
10.14 action in the same manner as provided by law for the foreclosure of mortgage liens. The
10.15 county where the drainage lien is filed has the right of action against the corporation to
10.16 enforce and collect the assessment.

10.17 Sec. 12. Minnesota Statutes 2016, section 103E.711, subdivision 1, is amended to read:

10.18 Subdivision 1. **Repair cost statement.** For a joint county drainage system the auditor
10.19 of a county that has made repairs may present a repair cost statement at the end of each
10.20 year, or other convenient period after completion, to each affected county. The repair cost
10.21 statement must show the nature and cost of the repairs to the drainage system and must be
10.22 ~~based on the original apportionment of cost following the establishment of the drainage~~
10.23 ~~system~~ apportioned in accordance with section 103E.728. If a board approves the repair
10.24 costs, the amount of the statement must be paid to the county submitting the statement.

10.25 Sec. 13. Minnesota Statutes 2016, section 103E.715, subdivision 4, is amended to read:

10.26 Subd. 4. **Hearing on repair report.** (a) The drainage authority shall make findings and
10.27 order the repair to be made if:

10.28 (1) the drainage authority determines from the repair report and the evidence presented
10.29 that the repairs recommended are necessary for the best interests of the affected property
10.30 owners; or

10.31 (2) the repair petition is signed by the owners of at least 26 percent of the property area
10.32 affected by and assessed for ~~the original construction~~ benefits of the drainage system, and

11.1 the drainage authority determines that the drainage system is in need of repair so that it no
 11.2 longer serves its ~~original~~ purpose and the cost of the repair will not exceed the total benefits
 11.3 ~~determined in the original drainage system proceeding~~ of record for the drainage system.

11.4 (b) The order must direct the auditor and the chair of the board or, for a joint county
 11.5 drainage system, the auditors of the affected counties to proceed and prepare and award a
 11.6 contract for the repair of the drainage system. The contract must be for the repair described
 11.7 in the repair report and as determined necessary by the drainage authority, and be prepared
 11.8 in the manner provided in this chapter ~~for the original drainage system construction.~~

11.9 Sec. 14. Minnesota Statutes 2016, section 103E.715, subdivision 5, is amended to read:

11.10 Subd. 5. **Apportionment of repair cost for joint county drainage system.** For the
 11.11 repair of a joint county drainage system, the drainage authority shall, by order, apportion
 11.12 the repair cost among affected counties in ~~the same manner required in the original~~
 11.13 ~~construction of the drainage system~~ accordance with section 103E.728.

11.14 Sec. 15. Minnesota Statutes 2016, section 103E.725, is amended to read:

11.15 **103E.725 COST OF REPAIR.**

11.16 All fees and costs incurred for proceedings relating to the repair of a drainage system,
 11.17 including inspections, engineering, viewing, determination and administration of repair cost
 11.18 apportionment, hearings, and publications, as applicable, are costs of the repair and ~~must~~
 11.19 ~~be assessed against the property and entities benefited.~~

11.20 Sec. 16. Minnesota Statutes 2016, section 103E.728, subdivision 1, is amended to read:

11.21 Subdivision 1. **Generally.** Except as otherwise provided in this section, the cost of
 11.22 repairing a drainage system shall be apportioned:

11.23 (1) pro rata on all property and entities that have been assessed benefits for the drainage
 11.24 system ~~except as provided in this section~~ based on an applicable confirmed viewer's report
 11.25 of benefits and damages; or

11.26 (2) on all property contributing runoff to the drainage system, based on relative runoff
 11.27 and relative sediment delivery in an approved repair cost apportionment report, in accordance
 11.28 with subdivision 1a.

11.29 Repair costs apportioned using the method in clause (2) are charges for property contributing
 11.30 runoff to the drainage system that shall be considered repair cost assessments in this chapter.

12.1 Sec. 17. Minnesota Statutes 2016, section 103E.728, is amended by adding a subdivision
12.2 to read:

12.3 Subd. 1a. **Relative runoff and relative sediment delivery method for repair cost**
12.4 **apportionment.** (a) When the drainage authority has determined that a drainage system
12.5 repair is necessary, the drainage authority may apportion costs for the repair of a drainage
12.6 system based on relative runoff and relative sediment delivery from any property, public
12.7 road, street, railway, or other utility contributing runoff to the drainage system as provided
12.8 in this subdivision. If this cost apportionment method is used, costs must be determined
12.9 prior to ordering the repair of all or any part of a drainage system as provided in section
12.10 103E.705, subdivision 3, or 103E.715, subdivision 4, or prior to levying a repair fund
12.11 assessment as provided in section 103E.735, subdivision 1.

12.12 (b) The drainage authority shall appoint one or more persons qualified to use geographic
12.13 information system technology and applicable digital information, including but not limited
12.14 to conditioned topographic data, soils and land use data, and property, road, and utility
12.15 corridor identification data, together with appropriate on-site verification, to equitably
12.16 apportion repair costs.

12.17 (c) The person or persons conducting the cost apportionment shall file a repair cost
12.18 apportionment report with the drainage authority explaining in nontechnical language the
12.19 method, data, and interpretations used, and the cost apportionment results. The report shall
12.20 present data and results in a format so that individual property owners, political subdivisions,
12.21 and utilities can clearly examine the information applicable to their property, public road,
12.22 street, railway, or other utility, including for each parcel having a separate property
12.23 identification number.

12.24 (d) When a repair cost apportionment report is filed, the drainage authority, in consultation
12.25 with the auditor or secretary, shall set a time, by order, for a hearing on the report not more
12.26 than 30 days after the date of the order. At least 20 days before the hearing, the auditor or
12.27 secretary shall give notice by mail of the time and location of the hearing to the owners of
12.28 property, political subdivisions, and utilities proposed to be assessed in the report. The
12.29 notice of hearing must include a copy of the portion of the report explaining in nontechnical
12.30 language the method, data, and interpretations used, the cost apportionment results applicable
12.31 to the property owner, political subdivision, or utility receiving notice, and a statement of
12.32 the location where the entire repair cost apportionment report has been filed for public
12.33 inspection.

13.1 (e) At the hearing, the drainage authority shall hear and consider the testimony presented
13.2 by all interested parties. At least one person responsible for preparing the repair cost
13.3 apportionment report shall be present at the initial hearing.

13.4 (f) If the drainage authority determines that the apportionment of costs is not equitable,
13.5 the drainage authority may amend the repair cost apportionment report and shall make
13.6 necessary and proper findings and an order in relation to the report, or resubmit matters to
13.7 the preparer of the repair cost apportionment report for further consideration. If matters are
13.8 resubmitted, the hearing may be continued as necessary to make and hear an amended report.
13.9 The report preparer shall proceed promptly to reconsider resubmitted matters and shall make
13.10 and file an amended report. The drainage authority may replace the original report with the
13.11 amended report for apportionment of repair costs and make necessary and proper findings
13.12 and an order to approve the amended report. The jurisdiction of the drainage authority
13.13 continues in the property given proper notice, and new or additional notice is not required
13.14 for that property.

13.15 (g) After consideration of the repair cost apportionment report, any amended report, and
13.16 all evidence presented, the drainage authority shall make findings, approve the report, and
13.17 apportion repair costs consistent with the values in the repair cost apportionment report if
13.18 it finds that the cost apportionment is equitable based on:

13.19 (1) the weighting of relative runoff and relative sediment delivery is appropriate for the
13.20 type of repair;

13.21 (2) the data inputs are reliable; and

13.22 (3) the computation method is reliable.

13.23 (h) The drainage authority may continue to apportion repair costs consistent with the
13.24 values in the repair cost apportionment report of record. After a repair cost apportionment
13.25 report has been approved under this subdivision, an owner of property, a political subdivision,
13.26 or a utility assessed in the repair cost apportionment report of record may request in writing
13.27 that the drainage authority update the report based on changed land use. The request shall
13.28 be filed with the auditor of the county where the property is located or the secretary. Prior
13.29 to the next approval by the drainage authority of a repair cost assessment for the drainage
13.30 system, the drainage authority shall determine if the repair cost apportionment report of
13.31 record reasonably reflects current land use, relative runoff, and relative sediment delivery.
13.32 If it does not, the drainage authority shall make findings and shall appoint one or more
13.33 persons to prepare and file an updated repair cost apportionment report for the drainage
13.34 system in accordance with paragraphs (c), (d), (e), (f), and (g).

(i) Proper consideration must be given to property that is used for conservation that prohibits development or land use change by ownership, deed restriction, or conservation easement, or is enrolled in a program that prohibits agricultural crop production.

(j) The owner of any property subject to cost apportionment listed in the adopted repair cost apportionment report may appeal findings of the drainage authority under paragraph (g) as provided in section 103E.095.

Sec. 18. Minnesota Statutes 2016, section 103E.728, subdivision 2, is amended to read:

Subd. 2. **Additional assessment for agricultural practices on permanent strip of perennial vegetation.** (a) The drainage authority may, after notice and hearing, charge an additional assessment on property that has agricultural practices on or otherwise violates provisions related to the permanent strip of perennial vegetation acquired under section 103E.021.

(b) The drainage authority may determine the cost of the repair per mile of open ditch on the ditch system. Property that is in violation of the ~~grass~~ section 103E.021 perennial buffer strip requirement shall be assessed ~~a~~ an additional cost of 20 percent of the repair cost per open ditch mile multiplied by the length of open ditch in miles on the property in violation.

(c) After the amount of the additional assessment is determined and applied to the repair cost, the balance of the repair cost may be apportioned ~~pro-rata~~ as provided in subdivision 1.

Sec. 19. Minnesota Statutes 2016, section 103E.731, subdivision 1, is amended to read:

Subdivision 1. **Repair cost of assessments.** If there is not enough money in the drainage system account to make a repair, the board shall assess the costs of the repairs ~~on all property and entities that have been assessed benefits for the drainage system~~ in accordance with section 103E.728.

Sec. 20. Minnesota Statutes 2016, section 103E.731, subdivision 2, is amended to read:

Subd. 2. **Number of installments.** The assessments may be paid in up to 15 annual installments specified in the assessment order. ~~If the assessments are not more than 50 percent of the original cost of the drainage system, the installments may not exceed ten. If the assessments are greater than 50 percent of the original cost of the drainage system, the board may order the assessments to be paid in 15 or less installments.~~

15.1 Sec. 21. Minnesota Statutes 2016, section 103E.731, subdivision 6, is amended to read:

15.2 Subd. 6. **Repair of state drainage system when no benefits assessed.** For the repair
15.3 of a drainage system established by the state where benefits were not assessed to the property,
15.4 the drainage authority shall ~~proceed to appoint viewers to determine the benefits resulting~~
15.5 ~~from the repair~~ apportion repair costs in accordance with section 103E.728, and collect
15.6 assessments for the repair as provided in this chapter.

15.7 Sec. 22. Minnesota Statutes 2016, section 103E.735, subdivision 1, is amended to read:

15.8 Subdivision 1. **Authority and limits of fund.** To create or maintain a repair fund for a
15.9 drainage system to be used only for repairs, the drainage authority may apportion and assess
15.10 an amount ~~against all property and entities assessed for benefits in proceedings for~~
15.11 ~~establishment of the drainage system, including property not originally assessed and~~
15.12 ~~subsequently found to be benefited according to law~~ in accordance with section 103E.728.
15.13 The fund may not exceed 20 percent of the assessed benefits of the drainage system or
15.14 \$100,000, whichever is greater. If the account in a fund for a drainage system exceeds the
15.15 larger of 20 percent of the assessed benefits of the drainage system or \$100,000, assessments
15.16 for the fund may not be made until the account is less than the larger of 20 percent of the
15.17 assessed benefits or \$100,000. ~~Assessments must be made pro rata according to the~~
15.18 ~~determined benefits.~~ Assessments may be made payable, by order, in equal annual
15.19 installments. The auditor shall file a tabular statement as provided in section 103E.731,
15.20 subdivision 4, with the county recorder. Assessments must be collected as provided in
15.21 section 103E.731.

APPENDIX
Article locations in HF3836-1

ARTICLE 1 ACCELERATED BUFFER STRIP IMPLEMENTATION..... Page.Ln 1.13

ARTICLE 2 ACCELERATED RUNOFF AND SEDIMENT DELIVERY
OPTION..... Page.Ln 7.2