

HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH SESSION

H. F. No. 2870

03/14/2012 Authored by McNamara, Hansen and Norton

The bill was read for the first time and referred to the Committee on Environment, Energy and Natural Resources Policy and Finance

03/19/2012 Adoption of Report: Pass as Amended and Read Second Time

1.1 A bill for an act
 1.2 relating to water; modifying migratory waterfowl sanctuary and waterfowl
 1.3 feeding and resting area designations; modifying temporary public water
 1.4 drawdown provisions; defining shallow lakes; amending Minnesota Statutes
 1.5 2010, sections 97A.095, subdivisions 1, 2; 103G.005, by adding a subdivision;
 1.6 103G.408.

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

1.8 Section 1. Minnesota Statutes 2010, section 97A.095, subdivision 1, is amended to
 1.9 read:

1.10 Subdivision 1. **Migratory waterfowl sanctuary.** The commissioner may designate
 1.11 by rule any part of a state game refuge or any part of a public water that is designated for
 1.12 management purposes under section 97A.101, subdivision 2, as a migratory waterfowl
 1.13 sanctuary ~~if there is presented to the commissioner a petition signed by ten resident~~
 1.14 ~~licensed hunters describing an area that is primarily a migratory waterfowl refuge.~~ The
 1.15 commissioner must consider an area for designation upon presentation of a petition
 1.16 signed by at least ten residents demonstrating that the area is primarily a migratory
 1.17 waterfowl refuge. The commissioner shall post the area as a migratory waterfowl
 1.18 sanctuary. A person may not enter a posted migratory waterfowl sanctuary during the open
 1.19 migratory waterfowl season or during other times prescribed by the commissioner unless
 1.20 accompanied by or under a permit issued by a conservation officer or wildlife manager.
 1.21 Upon a request from a private landowner within a migratory waterfowl sanctuary, an
 1.22 annual permit must be issued to provide access to the property during the waterfowl
 1.23 season. The permit shall include conditions that allow no activity which would disturb
 1.24 waterfowl using the refuge during the waterfowl season.

2.1 Sec. 2. Minnesota Statutes 2010, section 97A.095, subdivision 2, is amended to read:

2.2 Subd. 2. **Waterfowl feeding and resting areas.** The commissioner may, by rule,
 2.3 designate any part of a lake as a migratory feeding and resting area if there is adequate,
 2.4 free public access to the area. Before designation, the commissioner must ~~receive a~~
 2.5 ~~petition signed by at least ten local resident licensed hunters describing the area of a lake~~
 2.6 ~~that is a substantial feeding or resting area for migratory waterfowl, and find that the~~
 2.7 ~~statements in the petition are correct, and that adequate, free public access to the lake~~
 2.8 ~~exists near the designated area~~ describe the area in a public notice and receive public
 2.9 comments for 30 days. The commissioner must consider an area for designation upon
 2.10 presentation of a petition signed by at least ten residents demonstrating that the area is a
 2.11 substantial feeding or resting area for migratory waterfowl. The commissioner shall
 2.12 post the area as a migratory waterfowl feeding and resting area. Except as authorized in
 2.13 rules adopted by the commissioner, a person may not enter a posted migratory waterfowl
 2.14 feeding and resting area, during a period when hunting of migratory waterfowl is allowed,
 2.15 with watercraft or aircraft propelled by a motor, other than an electric motor with battery
 2.16 power of 12 volts or less. The commissioner may, by rule, further restrict the use of
 2.17 electric motors in migratory waterfowl feeding and resting areas.

2.18 Sec. 3. Minnesota Statutes 2010, section 103G.005, is amended by adding a
 2.19 subdivision to read:

2.20 Subd. 11a. **Shallow lake.** "Shallow lake" means a body of water, excluding a
 2.21 stream, that is greater than or equal to 50 acres in size and less than or equal to 15 feet
 2.22 in maximum depth.

2.23 Sec. 4. Minnesota Statutes 2010, section 103G.408, is amended to read:

2.24 **103G.408 TEMPORARY DRAWDOWN OF PUBLIC WATERS.**

2.25 (a) The commissioner, upon consideration of recommendations and objections as
 2.26 provided in clause ~~(4)~~ (2), item (iii), and paragraph (c), may issue a public waters work
 2.27 permit for the temporary drawdown of a public water when:

2.28 (1) the public water is a shallow lake to be managed for fish, wildlife, or ecological
 2.29 purposes by the commissioner and the commissioner has conducted a public hearing
 2.30 presenting a comprehensive management plan outlining how and when temporary
 2.31 drawdowns under this section will be conducted; or

2.32 ~~(1)~~ (2) the permit applicant is a public entity; and;

2.33 ~~(2)~~ (i) the commissioner deems the project to be beneficial and makes findings of
 2.34 fact that the drawdown is in the public interest;

3.1 ~~(3)~~ (ii) the permit applicant has obtained permission from at least 75 percent of the
3.2 riparian landowners; and

3.3 ~~(4)~~ (iii) the permit applicant has conducted a public hearing according to paragraph
3.4 (d).

3.5 (b) In addition to the requirements in section 103G.301, subdivision 6, the permit
3.6 applicant shall serve a copy of the application on each county, municipality, and watershed
3.7 management organization, if one exists, within which any portion of the public water is
3.8 located and on the lake improvement district, if one exists.

3.9 (c) A county, municipality, watershed district, watershed management organization,
3.10 or lake improvement district required to be served under paragraph (b) or section
3.11 103G.301, subdivision 6, may file a written recommendation for the issuance of a permit
3.12 or an objection to the issuance of a permit with the commissioner within 30 days after
3.13 receiving a copy of the application.

3.14 (d) The hearing notice for a public hearing under paragraph (a), clause ~~(4)~~ (2),
3.15 item (iii), must:

3.16 (1) include the date, place, and time for the hearing;

3.17 (2) include the waters affected and a description of the proposed project;

3.18 (3) be mailed to the director, the county auditor, the clerk or mayor of a municipality,
3.19 the lake improvement district if one exists, the watershed district or water management
3.20 organization, the soil and water conservation district, and all riparian owners of record
3.21 affected by the application; and

3.22 (4) be published in a newspaper of general circulation in the affected area.

3.23 (e) Periodic temporary drawdowns conducted under paragraph (a) shall not be
3.24 considered takings from riparian landowners.

3.25 ~~(e)~~ (f) This section does not apply to public waters that have been designated for
3.26 wildlife management under section 97A.101.