

SENATE
STATE OF MINNESOTA
EIGHTY-EIGHTH LEGISLATURE

S.F. No. 1373

(SENATE AUTHORS: SPARKS and Dziejdzic)

DATE	D-PG	OFFICIAL STATUS
03/13/2013	975	Introduction and first reading Referred to Jobs, Agriculture and Rural Development
03/20/2013	1283a	Comm report: To pass as amended and re-refer to Judiciary
03/21/2013	1414	Author added Dziejdzic
04/02/2013	1527	Comm report: To pass and re-referred to Finance

1.1 A bill for an act
 1.2 relating to agriculture; establishing the Minnesota agricultural water quality
 1.3 certification pilot program; requiring reports; amending Minnesota Statutes
 1.4 2012, section 13.6435, by adding a subdivision; proposing coding for new law in
 1.5 Minnesota Statutes, chapter 17.

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

1.7 Section 1. Minnesota Statutes 2012, section 13.6435, is amended by adding a
 1.8 subdivision to read:

1.9 Subd. 14. **Agricultural water quality certification pilot program.** Data on
 1.10 persons certified under the agricultural water quality certification pilot program is
 1.11 governed by section 17.9899.

1.12 Sec. 2. [17.9891] PURPOSE.

1.13 The commissioner, in consultation with the commissioners of the Pollution Control
 1.14 Agency and Department of Natural Resources, and the Board of Water and Soil Resources
 1.15 may implement a Minnesota agricultural water quality certification pilot program whereby
 1.16 once a producer demonstrates practices and management sufficient to protect and enhance
 1.17 water quality, the producer is exempt from having to comply with new state agency
 1.18 rules affecting agricultural or land management practices that could affect water quality
 1.19 for up to ten years. The program is voluntary. The program shall be piloted in selected
 1.20 watersheds across the state.

1.21 Sec. 3. [17.9892] DEFINITIONS.

1.22 Subdivision 1. **Application.** The definitions in this section apply to sections
 1.23 17.9891 to 17.992.

2.1 Subd. 2. **Technical assistance.** "Technical assistance" means professional, advisory,
2.2 or cost-share assistance provided to individuals that is designed to achieve Minnesota
2.3 agricultural water quality program certification.

2.4 Subd. 3. **Certifying agent.** "Certifying agent" means a person who is authorized
2.5 by the commissioner to assess producers to determine whether a producer satisfies the
2.6 standards of the Minnesota agricultural water quality certification pilot program.

2.7 Subd. 4. **Certification.** "Certification" means a producer has demonstrated
2.8 compliance with all applicable environmental rules and statutes for all of the producer's
2.9 owned and rented agricultural land, and has achieved a satisfactory score through the
2.10 certification instrument and has been verified by a certifying agent.

2.11 Subd. 5. **Eligible land.** "Eligible land" means all acres of an agricultural operation
2.12 of a producer, whether or not contiguous, that are under the effective control of the
2.13 producer at the time the producer enters into the certification program, and are operated
2.14 by the producer with equipment, labor, and management.

2.15 Subd. 6. **Effective control.** "Effective control" means possession of the land
2.16 by ownership, written lease, or other legal agreement and authority to act as decision
2.17 maker for the day-to-day management of the operation at the time the producer achieves
2.18 certification and for the required period of the certification.

2.19 Subd. 7. **Program.** "Program" means the Minnesota agricultural water quality pilot
2.20 program established in sections 17.9891 to 17.992.

2.21 **Sec. 4. [17.9893] CERTIFICATION INSTRUMENT.**

2.22 The commissioner, in consultation with the commissioners of the Pollution Control
2.23 Agency and Department of Natural Resources, and the Board of Water and Soil Resources,
2.24 shall develop an analytical instrument to assess the land and water quality practices and
2.25 land and water management of agricultural operations. This instrument shall be used to
2.26 certify the water quality practices and water management of an agricultural operation are
2.27 consistent with state water quality goals and standards. The commissioner shall define a
2.28 satisfactory score for certification purposes. The certification instrument tool shall:

2.29 (1) integrate applicable existing regulatory requirements;

2.30 (2) utilize technology and prioritize ease of use;

2.31 (3) utilize a water quality index or score applicable to the landscape;

2.32 (4) incorporate a process for updates and revisions as land and water quality

2.33 practices, land and water management, and technology changes become established and
2.34 approved; and

2.35 (5) comprehensively address water quality impacts.

3.1 Sec. 5. **[17.9894] LICENSE.**

3.2 Subdivision 1. **License.** Any person who offers certification services to producers
3.3 as part of this program must satisfy all criteria in subdivision 2 and be licensed by
3.4 the commissioner. A certifying agent is ineligible to provide certification services to
3.5 any producer to whom the certifying agent has also provided technical assistance. The
3.6 commissioner may set fees for the license.

3.7 Subd. 2. **Certifying agent requirements.** In order to be licensed as a certifying
3.8 agent, a person must:

3.9 (1) be an agricultural conservation professional employed by the state of Minnesota,
3.10 a Soil and Water Conservation District, the Natural Resources Conservation Service, or be
3.11 a Minnesota certified crop advisor as recognized by the American Society of Agronomy;

3.12 (2) have passed a comprehensive exam, as established by the commissioner,
3.13 evaluating the person's knowledge of water quality, soil health, best farm management
3.14 techniques, and the certification instrument; and

3.15 (3) maintain continuing education requirements as established by the commissioner.

3.16 Sec. 6. **[17.9895] DUTIES OF A CERTIFYING AGENT.**

3.17 Subdivision 1. **Duties of certifying agent.** A certifying agent shall conduct formal
3.18 certification assessment utilizing the certification instrument to determine whether a
3.19 producer meets the criteria set forth in the program. If a producer satisfies all requirements,
3.20 the certifying agent shall notify the commissioner of the producer's eligibility and request
3.21 that the state issue a certificate. All records and documents used in the assessment shall be
3.22 compiled by the certifying agent and submitted to the commissioner.

3.23 Subd. 2. **Violations.** In the event a certifying agent violates any provision of this
3.24 chapter or an order of the commissioner, the commissioner may issue a written warning,
3.25 or a correction order, and may suspend or revoke a license. If a license or certificate is
3.26 suspended or revoked, the certifying agent has ten days from the suspension or revocation
3.27 to appeal. If a certifying agent appeals, the commissioner shall hold an administrative
3.28 hearing within 30 days of the suspension or revocation of the license, or longer by
3.29 agreement of the parties, to determine whether the license is revoked or suspended. The
3.30 commissioner shall issue an opinion within 30 days of the hearing. If a person notifies the
3.31 commissioner that the person intends to contest the commissioner's opinion, the Office of
3.32 Administrative Hearings shall conduct a hearing in accordance with applicable provisions
3.33 of chapter 14 for hearings in contested cases.

3.34 Sec. 7. **[17.9896] CERTIFICATION PROCEDURES.**

4.1 A producer who seeks certification of eligible land shall conduct an initial
4.2 assessment using the certification instrument, obtain technical assistance, if necessary,
4.3 to achieve a satisfactory score on the certification instrument, and apply for certification
4.4 from a licensed certifying agent. A certification is valid for up to ten years, as long as
4.5 the producer maintains compliance with original certification practices. Once certified,
4.6 if a producer obtains effective control in additional agricultural land, the producer must
4.7 notify a certifying agent and obtain certification on the additional land within one year in
4.8 order to maintain the producer's original certification. The commissioner may revoke a
4.9 certification if the producer fails to obtain certification within one year on any additional
4.10 land for which the producer obtains effective control. The commissioner may revoke
4.11 a certification and seek reimbursement of any monetary benefit a producer may have
4.12 received due to certification from a producer who fails to maintain certification criteria.
4.13 The commissioner shall use the hearing and contested case process outlined in section
4.14 17.9895, subdivision 2, to revoke certification of a producer.

4.15 **Sec. 8. [17.9897] CERTIFICATION CERTAINTY.**

4.16 Once a producer is certified, the producer:

4.17 (1) is exempt from any new state agency rules pertaining to water quality protection
4.18 for up to ten years from the date of certification, unless required by the legislature or by
4.19 the federal government;

4.20 (2) is considered to be meeting the producer's contributions to any targeted
4.21 reductions of pollutants during the period of certification;

4.22 (3) is required to continue implementation of practices that maintain the producer's
4.23 certification; and

4.24 (4) is required to retain all records pertaining to certification.

4.25 **Sec. 9. [17.9898] AUDITS.**

4.26 The commissioner shall perform random audits of the producers and certifying
4.27 agents to ensure compliance with the program. All producers and certifying agents shall
4.28 cooperate with the commissioner during these audits, and provide all relevant documents
4.29 to the commissioner for inspection and copying. Any delay, obstruction, or refusal to
4.30 cooperate with the commissioner's audit, or falsification of or failure to provide required
4.31 data or information, is a violation subject to the provisions of section 17.9895, subdivision
4.32 2, or 17.9896.

4.33 **Sec. 10. [17.9899] DATA PRIVACY.**

5.1 All data collected under this program that identifies the producer or the producer's
5.2 location shall be considered nonpublic data as defined in section 13.02, subdivision 9, or
5.3 private data on individuals as defined in section 13.02, subdivision 12. The commissioner
5.4 shall make available summary data of program outcomes.

5.5 Sec. 11. **[17.991] REPORTS.**

5.6 The commissioner, in consultation with commissioners of the Pollution Control
5.7 Agency and Department of Natural Resources, and the Board of Water and Soil Resources,
5.8 shall issue a biennial report by January 15 of each odd-numbered year, to the chairs and
5.9 ranking minority members of the legislative committees with jurisdiction over agricultural
5.10 policy and finance on the status of the program, including any recommendations on
5.11 expanding the program.

5.12 Sec. 12. **[17.992] FINANCIAL ASSISTANCE.**

5.13 The commissioner may use contributions from gifts or other state accounts, provided
5.14 that the purposes of the expenditures are consistent with the purpose of the accounts, for
5.15 grants, loans, or other financial assistance to producers becoming certified in the program.