

**SENATE
STATE OF MINNESOTA
NINETY-FIRST SESSION**

S.F. No. 1910

(SENATE AUTHORS: HOWE)

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OFFICIAL STATUS
Introduction and first reading
Referred to Environment and Natural Resources Policy and Legacy Finance

1.1 A bill for an act
1.2 relating to waters; requiring approval of certain alternatives to riparian buffers;
1.3 requiring certain information about benefits of alternatives; amending Minnesota
1.4 Statutes 2018, sections 103F.48, subdivisions 3, 10; 103G.2242, subdivision 12.

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

1.6 Section 1. Minnesota Statutes 2018, section 103F.48, subdivision 3, is amended to read:

1.7 Subd. 3. **Riparian protection; requirements on public waters and public drainage**
1.8 **systems.** (a) Except as provided in paragraph (b), landowners owning property adjacent to
1.9 a water body identified and mapped on a buffer-protection map must maintain a buffer to
1.10 protect the state's water resources as follows:

1.11 (1) for all public waters, the more restrictive of:

1.12 (i) a 50-foot average width, 30-foot minimum width, continuous buffer of perennially
1.13 rooted vegetation; or

1.14 (ii) the state shoreland standards and criteria adopted by the commissioner under section
1.15 103F.211; and

1.16 (2) for public drainage systems established under chapter 103E, a 16.5-foot minimum
1.17 width continuous buffer as provided in section 103E.021, subdivision 1. The buffer vegetation
1.18 shall not impede future maintenance of the ditch.

1.19 (b) A landowner owning property adjacent to a water body identified in a
1.20 buffer-protection map and whose property is used for cultivation farming may meet the
1.21 requirements under paragraph (a) by adopting an alternative riparian water quality practice,
1.22 or combination of structural, vegetative, and management practices, based on the Natural

2.1 Resources Conservation Service Field Office Technical Guide, common alternative practices
 2.2 adopted and published by the board, other practices approved by the board, or practices
 2.3 based on local conditions approved by the local soil and water conservation district that are
 2.4 consistent with the Field Office Technical Guide, that provide water quality protection
 2.5 comparable to the buffer protection for the water body that the property abuts. ~~Included in~~
 2.6 ~~these practices are~~ The board must approve using retention ponds, diverting water to a new
 2.7 or existing wetland in a manner that does not harm the wetland, and alternative other
 2.8 measures that prevent overland flow to the water resource as alternative practices under this
 2.9 section.

2.10 (c) The width of a buffer on public waters must be measured from the top or crown of
 2.11 the bank. Where there is no defined bank, measurement must be from the edge of the normal
 2.12 water level. The width of the buffer on public drainage systems must be measured as provided
 2.13 in section 103E.021, subdivision 1.

2.14 (d) Upon request by a landowner or authorized agent or operator of a landowner, a
 2.15 technical professional employee or contractor of the soil and water conservation district or
 2.16 its delegate may issue a validation of compliance with the requirements of this subdivision.
 2.17 The soil and water conservation district validation may be appealed to the board as described
 2.18 in subdivision 9.

2.19 (e) Buffers or alternative water quality practices required under paragraph (a) or (b)
 2.20 must be in place on or before:

2.21 (1) November 1, 2017, for public waters; and

2.22 (2) November 1, 2018, for public drainage systems.

2.23 (f) Nothing in this section limits the eligibility of a landowner or authorized agent or
 2.24 operator of a landowner to participate in federal or state conservation programs, including
 2.25 enrolling or reenrolling in federal conservation programs.

2.26 (g) After May 31, 2017, a person planting buffers or water quality protection practices
 2.27 to meet the requirements in paragraph (a) must use only seed mixes verified by the
 2.28 Department of Agriculture as consistent with chapter 18G or 21 to prevent contamination
 2.29 with Palmer amaranth or other noxious weed seeds.

2.30 Sec. 2. Minnesota Statutes 2018, section 103F.48, subdivision 10, is amended to read:

2.31 Subd. 10. ~~Landowner financial assistance and public drainage system procedure~~
 2.32 **information.** (a) Each soil and water conservation district must proactively provide
 2.33 landowners and drainage authorities in the district with information about approved

3.1 alternative practices and how to apply for local, state, or federal cost-share grants, contracts,
3.2 loans, or related forms of assistance. Additionally, a landowner or drainage authority may
3.3 contact the soil and water conservation district for information on approved alternative
3.4 practices and how to apply for local, state, or federal cost-share grants, contracts, ~~or~~ loans,
3.5 or related forms of assistance that are available to establish buffers or other water resource
3.6 protection measures.

3.7 (b) The provisions of sections 103E.011, subdivision 5; 103E.021; and 103E.715 may
3.8 be used in advance or retroactively to acquire or provide compensation for all or part of the
3.9 buffer strip establishment or alternative riparian water quality practices as required under
3.10 subdivision 3, paragraph (a) or (b).

3.11 Sec. 3. Minnesota Statutes 2018, section 103G.2242, subdivision 12, is amended to read:

3.12 Subd. 12. **Replacement credits.** (a) No public or private wetland restoration,
3.13 enhancement, or construction may be allowed for replacement unless specifically designated
3.14 for replacement and paid for by the individual or organization performing the wetland
3.15 restoration, enhancement, or construction.

3.16 (b) Paragraph (a) does not apply to a wetland whose owner has paid back with interest
3.17 the individual or organization restoring, enhancing, or constructing the wetland.

3.18 (c) Notwithstanding section 103G.222, subdivision 1, paragraph (i), the following actions,
3.19 and others established in rule, that are consistent with criteria in rules adopted by the board
3.20 in conjunction with the commissioners of natural resources and agriculture, are eligible for
3.21 replacement credit as determined by the local government unit or the board, including
3.22 enrollment in a statewide wetlands bank:

3.23 (1) reestablishment of permanent native, noninvasive vegetative cover on a wetland on
3.24 agricultural land that was planted with annually seeded crops, was in a crop rotation seeding
3.25 of pasture grasses or legumes, or was in a land retirement program during the past ten years;

3.26 (2) buffer areas of permanent native, noninvasive vegetative cover established or
3.27 preserved on upland adjacent to replacement wetlands;

3.28 (3) wetlands restored for conservation purposes under terminated easements or contracts;

3.29 (4) water quality treatment ponds constructed to pretreat storm water runoff prior to
3.30 discharge to wetlands, public waters, or other water bodies, provided that the water quality
3.31 treatment ponds must be associated with an ongoing or proposed project that will impact a
3.32 wetland and replacement credit for the treatment ponds is based on the replacement of

4.1 wetland functions and on an approved storm water management plan for the local
4.2 government; ~~and~~

4.3 (5) in a greater than 80 percent area, restoration and protection of streams and riparian
4.4 buffers that are important to the functions and sustainability of aquatic resources; and

4.5 (6) wetlands created or restored as part of implementing an alternative practice under
4.6 section 103F.48, subdivision 3.

4.7 (d) Notwithstanding section 103G.222, subdivision 1, paragraphs (f) and (g), the board
4.8 may establish by rule different replacement ratios for restoration projects with exceptional
4.9 natural resource value.

4.10 Sec. 4. **INCENTIVES FOR ADOPTING ALTERNATIVE PRACTICES.**

4.11 The Board of Water and Soil Resources must identify the benefits or potential benefits
4.12 to a landowner or drainage authority of adopting each alternative practice approved under
4.13 Minnesota Statutes, section 103F.48, subdivision 3. The benefits identified must be in
4.14 addition to those described in Minnesota Statutes, section 103F.48, subdivision 2. Beginning
4.15 March 1, 2020, all guidance and publications of the board describing implementation of
4.16 alternative practices must include information about the benefits or potential benefits
4.17 identified under this section.