

SENATE
STATE OF MINNESOTA
NINETIETH SESSION

S.F. No. 4072

(SENATE AUTHORS: INGEBRIGTSEN)

DATE
05/08/2018

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Introduction and first reading

OFFICIAL STATUS

Referred to Environment and Natural Resources Policy and Legacy Finance

1.1 A bill for an act
1.2 relating to environment; establishing Clean Water Council in legislative branch;
1.3 repealing existing council; providing appointments; amending Minnesota Statutes
1.4 2016, section 114D.15, subdivision 3; proposing coding for new law in Minnesota
1.5 Statutes, chapter 114D; repealing Minnesota Statutes 2016, section 114D.30.

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

1.7 Section 1. Minnesota Statutes 2016, section 114D.15, subdivision 3, is amended to read:

1.8 Subd. 3. **Clean Water Council or council.** "Clean Water Council" or "council" means
1.9 the Clean Water Council created pursuant to section ~~114D.30~~ 114D.31, subdivision 1.

1.10 Sec. 2. **114D.31] CLEAN WATER COUNCIL.**

1.11 Subdivision 1. **Creation; membership.** (a) The Clean Water Council of 12 members
1.12 is created in the legislative branch, consisting of:

1.13 (1) two public members appointed by the senate Subcommittee on Committees of the
1.14 Committee on Rules and Administration;

1.15 (2) two public members appointed by the speaker of the house;

1.16 (3) four public members appointed by the governor;

1.17 (4) two members of the senate, one appointed by the senate majority leader and one
1.18 appointed by the senate minority leader; and

1.19 (5) two members of the house of representatives, one appointed by the speaker of the
1.20 house and one appointed by the house minority leader.

2.1 (b) Members appointed under paragraph (a) must not be registered lobbyists. In making
2.2 appointments, the governor, senate Subcommittee on Committees of the Committee on
2.3 Rules and Administration, and the speaker of the house must consider geographic balance,
2.4 gender, age, ethnicity, and varying interests. The governor's appointments to the council
2.5 are subject to the advice and consent of the senate.

2.6 (c) Public members appointed under paragraph (a) must have practical experience or
2.7 expertise or demonstrated knowledge in the science, policy, or practice of restoring,
2.8 protecting, and enhancing water quality in lakes, rivers, and streams and protecting
2.9 groundwater from degradation.

2.10 (d) Legislative members appointed under paragraph (a) must include the chairs of the
2.11 legislative committees with jurisdiction over environment and natural resources finance or
2.12 the chairs' designees, one member from the senate minority party, and one member from
2.13 the house minority party. Legislative members serve at the pleasure of the appointing
2.14 authority.

2.15 (e) Public members serve four-year terms and are initially appointed according to the
2.16 following schedule of terms:

2.17 (1) two public members appointed by the governor for a term ending the first Monday
2.18 in January 2020;

2.19 (2) one public member appointed by the senate Subcommittee on Committees of the
2.20 Committee on Rules and Administration for a term ending the first Monday in January
2.21 2020;

2.22 (3) one public member appointed by the speaker of the house for a term ending the first
2.23 Monday in January 2020;

2.24 (4) two public members appointed by the governor for a term ending the first Monday
2.25 in January 2022;

2.26 (5) one public member appointed by the senate Subcommittee on Committees of the
2.27 Committee on Rules and Administration for a term ending the first Monday in January
2.28 2022; and

2.29 (6) one public member appointed by the speaker of the house for a term ending the first
2.30 Monday in January 2022.

2.31 (f) Terms, compensation, and removal of public members are as provided under section
2.32 15.0575. A vacancy on the council may be filled by the appointing authority for the remainder
2.33 of the unexpired term.

3.1 (g) The first meeting of the council must be convened by the chair of the Legislative
3.2 Coordinating Commission no later than November 15, 2018. Members must elect a chair,
3.3 vice-chair, secretary, and other officers as determined by the council. The chair may convene
3.4 meetings as necessary to conduct the duties prescribed by this section.

3.5 (h) Upon coordination with the Legislative Coordinating Commission, the council may
3.6 appoint nonpartisan staff and contract with consultants as necessary to carry out the functions
3.7 of the council. Up to two percent of the annual revenue to the clean water fund may be used
3.8 to pay for administrative expenses of the council and to compensate and reimburse expenses
3.9 of council members.

3.10 Subd. 2. **Council recommendations.** (a) By January 15 of each odd-numbered year,
3.11 the council must make recommendations to the legislature on appropriations of money from
3.12 the clean water fund and other policies under this chapter that are consistent with the
3.13 Minnesota Constitution and state law and that will achieve the outcomes of existing water
3.14 plans. The recommendations must include a program for small grants by an application
3.15 process through a fiscal agent. Not more than five percent of appropriations in a fiscal year
3.16 may be recommended for aquatic invasive species projects.

3.17 (b) Recommendations of the council, including approval of recommendations for the
3.18 clean water fund, require an affirmative vote of at least nine members of the council.

3.19 (c) The council may work with the Lessard-Sams Outdoor Heritage Council, the
3.20 Legislative-Citizen Commission on Minnesota Resources, appropriate state agencies, soil
3.21 and water conservation districts, and experts from Minnesota State Colleges and Universities
3.22 and the University of Minnesota in developing the council's recommendations.

3.23 (d) The council must develop and implement a process that ensures that citizens and
3.24 potential recipients of funds are included throughout the process, including developing and
3.25 finalizing the council's recommendations. The process must include a fair, equitable, and
3.26 thorough process for reviewing requests for funding and a clear and easily understood
3.27 process for ranking projects.

3.28 Subd. 3. **Conflict of interest.** (a) A council member may not be an advocate for or
3.29 against a council action or vote on any action that may be a conflict of interest. A conflict
3.30 of interest must be disclosed as soon as it is discovered. The council must follow the policies
3.31 and requirements related to conflicts of interest developed by the Office of Grants
3.32 Management under section 16B.98.

3.33 (b) For purposes of this section, a conflict of interest exists when a person has an
3.34 organizational conflict of interest or direct financial interests and those interests present the

4.1 appearance that it will be difficult for the person to impartially fulfill the person's duty. An
4.2 organizational conflict of interest exists when a person is affiliated with an organization
4.3 that is subject to council activities that presents the appearance of a conflict between
4.4 organizational interests and council member duties. An organizational conflict of interest
4.5 does not exist if the person's only affiliation with an organization is being a member of the
4.6 organization.

4.7 Subd. 4. **Open meetings.** (a) Meetings of the council and other groups the council may
4.8 establish are open to the public and subject to chapter 13D. Except where prohibited by
4.9 law, the council must establish additional processes to broaden public involvement in all
4.10 aspects of its deliberations, including recording meetings, videoconferencing, and publishing
4.11 minutes. For purposes of this subdivision, a meeting occurs when a quorum is present and
4.12 the members take action on any matter relating to the duties of the council. The quorum
4.13 requirement for the council is seven members.

4.14 (b) For legislative members of the council, enforcement of this subdivision is governed
4.15 by section 3.055, subdivision 2. For nonlegislative members of the council, enforcement of
4.16 this subdivision is governed by section 13D.06, subdivisions 1 and 2.

4.17 Subd. 5. **Audit.** The legislative auditor must audit the clean water fund expenditures,
4.18 including administrative and staffing expenditures, to ensure that the money is spent in
4.19 compliance with all applicable law and the Minnesota Constitution.

4.20 Sec. 3. **REPEALER.**

4.21 Minnesota Statutes 2016, section 114D.30, is repealed.

114D.30 CLEAN WATER COUNCIL.

Subdivision 1. **Creation; duties.** A Clean Water Council is created to advise on the administration and implementation of this chapter, and foster coordination and cooperation as described in section 114D.20, subdivision 1. The council may also advise on the development of appropriate processes for expert scientific review as described in section 114D.35, subdivision 2. The Pollution Control Agency shall provide administrative support for the council with the support of other member agencies. The members of the council shall elect a chair from the voting members of the council.

Subd. 2. **Membership; appointment.** (a) The commissioners of natural resources, agriculture, health, and the Pollution Control Agency, the executive director of the Board of Water and Soil Resources, the Board of Regents of the University of Minnesota, and the Metropolitan Council shall each appoint one person from their respective entity to serve as a nonvoting member of the council. Two members of the house of representatives, including one member from the majority party and one member from the minority party, appointed by the speaker and two senators, including one member from the majority party and one member from the minority party, appointed according to the rules of the senate shall serve at the pleasure of the appointing authority as nonvoting members of the council. Members appointed under this paragraph serve as nonvoting members of the council.

(b) Seventeen voting members of the council shall be appointed by the governor as follows:

(1) two members representing statewide farm organizations;

(2) two members representing business organizations;

(3) two members representing environmental organizations;

(4) one member representing soil and water conservation districts;

(5) one member representing watershed districts;

(6) one member representing nonprofit organizations focused on improvement of Minnesota lakes or streams;

(7) two members representing organizations of county governments, one member representing the interests of rural counties and one member representing the interests of counties in the seven-county metropolitan area;

(8) two members representing organizations of city governments;

(9) one member representing township officers;

(10) one member representing the interests of tribal governments;

(11) one member representing statewide hunting organizations; and

(12) one member representing statewide fishing organizations.

Members appointed under this paragraph must not be registered lobbyists or legislators. In making appointments, the governor must attempt to provide for geographic balance. The members of the council appointed by the governor are subject to the advice and consent of the senate.

Subd. 3. **Conflict of interest.** A Clean Water Council member may not participate in or vote on a decision of the council relating to an organization in which the member has either a direct or indirect personal financial interest. While serving on the Clean Water Council, a member shall avoid any potential conflict of interest.

Subd. 4. **Terms; compensation; removal.** The terms of members representing the state agencies and the Metropolitan Council are four years and are coterminous with the governor. The terms of other nonlegislative members of the council shall be as provided in section 15.059, subdivision 2. Members may serve until their successors are appointed and qualify. Compensation and removal of nonlegislative council members is as provided in section 15.059, subdivisions 3 and 4. Compensation of legislative members is as determined by the appointing authority. The Pollution Control Agency may reimburse legislative members for expenses. A vacancy on the council may be filled by the appointing authority provided in subdivision 1 for the remainder of the unexpired term.

Subd. 5. **Implementation plan.** The Clean Water Council shall recommend a plan for implementation of this chapter and the provisions of article XI, section 15, of the Minnesota Constitution relating to clean water. The recommended plan shall address general procedures and

APPENDIX
Repealed Minnesota Statutes: SF4072-0

time frames for implementing this chapter, and shall include a more specific implementation work plan for the next fiscal biennium and a framework for setting priorities to address impaired waters consistent with section 114D.20, subdivisions 2 to 7. The council shall issue a revised plan by December 1 of each even-numbered year.

Subd. 6. **Recommendations on appropriation of funds.** (a) The Clean Water Council shall recommend to the governor and the legislature the manner in which money from the clean water fund should be appropriated for the purposes stated in article XI, section 15, of the Minnesota Constitution and section 114D.50.

(b) The council's recommendations must:

(1) be to protect, enhance, and restore water quality in lakes, rivers, and streams and to protect groundwater from degradation and ensure that at least five percent of the clean water fund is spent only to protect drinking water sources;

(2) be consistent with the purposes, policies, goals, and priorities in this chapter; and

(3) allocate adequate support and resources to identify degraded groundwater and impaired waters, develop TMDL's, implement restoration of groundwater and impaired waters, and provide assistance and incentives to prevent groundwater and surface waters from becoming degraded or impaired and improve the quality of surface waters which are listed as impaired but have no approved TMDL.

(c) The council must recommend methods of ensuring that awards of grants, loans, or other funds from the clean water fund specify the outcomes to be achieved as a result of the funding and specify standards to hold the recipient accountable for achieving the desired outcomes. Expenditures from the fund must be appropriated by law.

Subd. 7. **Biennial report to legislature.** By December 1 of each even-numbered year, the council shall submit a report to the legislature on the activities for which money has been or will be spent for the current biennium, the activities for which money is recommended to be spent in the next biennium, and the impact on economic development of the implementation of efforts to protect and restore groundwater and the impaired waters program. The report due on December 1, 2014, must include an evaluation of the progress made through June 30, 2014, in implementing this chapter and the provisions of article XI, section 15, of the Minnesota Constitution relating to clean water, the need for funding of future implementation, and recommendations for the sources of funding.