

CHAPTER 683—S.F.No. 2289

An act relating to the environment; authorizing the waste management board to enter agreements providing for the development and operation of a wholly or partially state owned stabilization and containment facility; directing the board to make recommendation for legislative changes needed to implement facility development and operation; amending Minnesota Statutes 1987 Supplement, sections 115C.04, subdivisions 1 and 3; and 115C.09, subdivisions 1, 2, and by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 115A.

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

Section 1. [115A.195] PUBLIC PARTICIPATION IN OWNERSHIP AND MANAGEMENT OF FACILITY.

The stabilization and containment facility developed under sections 115A.18 to 115A.30 may be wholly owned by the state or jointly owned by the state and a developer selected by the board under section 115A.191. The board chair may negotiate and the board may enter agreements with a selected developer providing terms and conditions for the development and operation of the facility. If the agreements provide for capital improvements or equipment, or for payment of state money, the agreements may be implemented only if funds are appropriated and available to the board for those purposes.

Sec. 2. Minnesota Statutes 1987 Supplement, section 115C.04, subdivision 1, is amended to read:

Subdivision 1. **CORRECTIVE ACTION LIABILITY.** (a) A responsible person is liable for the cost of the corrective action taken by the agency under section 115C.03, subdivisions 2 and 3, including the cost of investigating the release and administrative and legal expenses, if:

(1) the responsible person has failed to take a corrective action ordered by the director and the agency has taken the action;

(2) the agency has taken corrective action in an emergency under section 115C.03, subdivision 3; or

(3) the agency has taken corrective action because a responsible person could not be identified.

(b) A responsible person is liable for the reimbursement paid by the petroleum tank release compensation board under section 115C.09, subdivision 3a, to the extent the reimbursement is for corrective action that the responsible person could have been ordered to perform under section 115C.03, subdivision 1.

Sec. 3. Minnesota Statutes 1987 Supplement, section 115C.04, subdivision 3, is amended to read:

Subd. 3. **AGENCY COST RECOVERY.** Reasonable and necessary expenses

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incurred by the agency in taking a corrective action, including costs of investigating a release ~~and~~ administrative and legal expenses, and reimbursement costs described in subdivision 1, paragraph (b), may be recovered in a civil action in district court brought by the attorney general against a responsible person. The agency's certification of expenses is prima facie evidence that the expenses are reasonable and necessary. Expenses that are recovered under this section must be deposited in the fund.

Sec. 4. Minnesota Statutes 1987 Supplement, section 115C.09, subdivision 1, is amended to read:

Subdivision 1. **REIMBURSABLE CORRECTIVE ACTIONS.** The board shall provide partial reimbursement for the cost of corrective action to eligible responsible persons for ~~releases reported~~ costs incurred after June 4, 1987.

Sec. 5. Minnesota Statutes 1987 Supplement, section 115C.09, subdivision 2, is amended to read:

Subd. 2. **RESPONSIBLE PERSON ELIGIBILITY.** (a) A responsible person who has taken corrective action and incurred costs after June 4, 1987, in response to a release ~~reported after June 4, 1987~~, may apply to the board for partial reimbursement under subdivision 3 and rules adopted by the board.

(b) A reimbursement may not be made unless the board determines that:

(1) the director has determined that the corrective action has adequately addressed the release and that the release no longer poses a threat to public health and welfare or the environment;

(2) at the time of the release the tank was in compliance with state and federal rules and regulations applicable to the tank, including rules or regulations relating to financial responsibility;

(3) the agency was given notice of the release as required by section 115.061;

(4) the responsible person, to the extent possible, fully cooperated with the agency in responding to the release; and

(5) if the responsible person is an operator, the person exercised due care with regard to operation of the tank, including maintaining inventory control procedures.

Sec. 6. Minnesota Statutes 1987 Supplement, section 115C.09, is amended by adding a subdivision to read:

Subd. 3a. ELIGIBILITY OF OTHER PERSONS. Notwithstanding the provisions of subdivisions 1 to 3, the board shall provide full reimbursement to a person who has taken corrective action if the board determines that:

(1) the person took the corrective action in response to a request or order of the director made under this chapter;

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(2) the director has determined that the person was not a responsible person under section 115C.02; and

(3) the costs for which reimbursement is requested were actually incurred and were reasonable.

Sec. 7. RECOMMENDATIONS TO LEGISLATURE.

By January 15, 1989, the board shall submit to the legislative commission on waste management a copy of its agreements with the selected developer concerning the development and operation of the stabilization and containment facility. The board shall also submit its recommendations concerning the legislative actions necessary to develop and operate the facility as provided in the agreements, including the types and amounts of necessary state financial assistance. The recommendations must also include a proposal for the financial assurance requirements necessary to provide for the payment of claims for damages and response costs that may result from the facility during operation and after closure. The financial assurance proposal must be designed to cover claims that may reasonably be anticipated based upon an analysis of the type and magnitude of the risks posed by the facility.

Sec. 8. EFFECTIVE DATE.

Section 1 is effective the day following final enactment.

Approved April 27, 1988

CHAPTER 684—S.F.No. 2565

An act relating to the organization and operation of state government; appropriating money for the department of transportation and other agencies with certain conditions; providing for regulation of certain activities and practices; requiring studies and reports; providing for certain funds, accounts, and fees; amending Minnesota Statutes 1986, sections 84B.11, subdivision 2; 174.32, subdivision 2; and 611A.71, subdivisions 1 and 4; Minnesota Statutes 1987 Supplement, sections 171.29, subdivision 2; and 473.17; proposing coding for new law in Minnesota Statutes, chapters 138 and 473.

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

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