

Sec. 7. APPLICATION; TRANSITION.

(a) Notwithstanding section 2, a person whose action to declare the existence of the father and child relationship would be barred by section 2 but not by Minnesota Statutes 1994, section 257.57, subdivision 2, clause (2), has until August 1, 1996, or until three years after the date of execution of the declaration or recognition of parentage, whichever is sooner, to bring an action to declare the nonexistence of the father and child relationship presumed under Minnesota Statutes, section 257.55, subdivision 1, paragraph (e) or (g).

(b) Notwithstanding any law to the contrary, a person whose action to declare the nonexistence of the father and child relationship presumed under Minnesota Statutes, section 257.55, subdivision 1, paragraph (e), or a person whose motion to vacate a paternity adjudication because of the results of blood or genetic tests obtained after the adjudication, was barred before the effective date of section 2, has until February 1, 1996, to commence the action or bring a motion to vacate the paternity adjudication.

Presented to the governor May 22, 1995

Signed by the governor May 24, 1995, 10:15 a.m.

CHAPTER 217—S.F.No. 529

VETOED

CHAPTER 218—H.F.No. 1101

An act relating to water; making miscellaneous technical corrections to water law; delegation of permit authority; minimal impact permits; removal of hazardous dams; requiring the commissioner of natural resources to issue a permit authorizing Hennepin county to construct a seawall on Lake Minnetonka; amending Minnesota Statutes 1994, sections 103F.215, subdivision 1; 103F.221, subdivision 1; 103G.005, subdivision 14; 103G.105; 103G.111, subdivision 1; 103G.121, subdivision 1; 103G.135; 103G.245, subdivisions 3 and 5; 103G.271, subdivision 2; 103G.275, subdivision 1; 103G.295, subdivision 4; 103G.301, subdivision 2; 103G.315, subdivisions 12 and 15; 103G.511, subdivision 12; 103G.515, by adding a subdivision; and 103G.611, subdivision 3.

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

Section 1. Minnesota Statutes 1994, section 103F.215, subdivision 1, is amended to read:

Subdivision 1. COUNTY ORDINANCE FAILING TO MEET STAN-

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DARDS. The commissioner shall adapt the model ordinance to a county if, after notice and hearing as provided in section 103G.311, the commissioner finds that a county has failed to adopt a shoreland conservation ordinance or that a county has adopted a shoreland conservation ordinance that fails to meet the minimum standards established under section 103F.211.

Sec. 2. Minnesota Statutes 1994, section 103F.221, subdivision 1, is amended to read:

Subdivision 1. **COMMISSIONER'S REVIEW OF ORDINANCES.** (a) A municipality having shoreland within its corporate boundaries must submit ordinances or rules affecting the use and development of its shorelands to the commissioner for review. The commissioner must review the ordinances or rules and:

(1) determine whether the rules and ordinances are in substantial compliance with municipal shoreland management standards and criteria under ~~subdivision 3~~ section 103F.211; and

(2) consider any feature unique to the municipal shoreland in question, including the characteristics of the waters that may be affected by development, storm sewer facilities, and sanitary and waste disposal facilities in existence at the time of the commissioner's review.

(b) If the commissioner determines that the ordinances or rules of a municipality do not substantially comply with the state standards and criteria for municipal shoreland management, the commissioner must notify the municipality. The notice must state the changes that are necessary to bring the ordinances or rules into substantial compliance with the standards and criteria. By one year after receiving the notice from the commissioner, the municipality must make changes necessary to bring the ordinances or rules into substantial compliance with state standards and criteria.

Sec. 3. Minnesota Statutes 1994, section 103G.005, subdivision 14, is amended to read:

Subd. 14. **ORDINARY HIGH WATER LEVEL.** "Ordinary high water level" means the boundary of waterbasins, watercourses, public waters, and public waters wetlands, and:

(1) the ordinary high water level is an elevation delineating the highest water level that has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly the point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial;

(2) for watercourses, the ordinary high water level is the elevation of the top of the bank of the channel; and

(3) for reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

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Sec. 4. Minnesota Statutes 1994, section 103G.105, is amended to read:

103G.105 COOPERATION WITH OTHER AGENCIES.

Subdivision 1. **COMMISSIONER MAY COOPERATE WITH OTHER STATES AND FEDERAL GOVERNMENT.** The commissioner may cooperate and enter into agreements with the United States government, a state department, or a state or country adjacent to this state to implement ~~this chapter chapters~~ 103F and 103G. The commissioner may cooperate with departments of the government of the United States in the execution of surveys within the state.

Subd. 2. **STATE AND LOCAL OFFICIALS MUST COOPERATE IN ENFORCEMENT.** Personnel of the pollution control agency, the health department, and county and municipal governments must cooperate with the commissioner in monitoring and enforcing water permits. County attorneys, sheriffs, and other peace officers and other officers having enforcement authority must take all action to the extent of their authority, respectively, that may be necessary or proper for the enforcement of the provisions, rules, standards, orders, or permits specified in ~~this chapter chapters~~ 103F and 103G.

Sec. 5. Minnesota Statutes 1994, section 103G.111, subdivision 1, is amended to read:

Subdivision 1. **COMMISSIONER TO APPEAR IN FEDERAL WATER ISSUES.** The commissioner may appear, represent, and act for the state in any matter relating to an application to be made to the federal government relating to waters of the state or their use and may act in a manner to protect the interests of the people of the state consistent with ~~this chapter chapters~~ 103F and 103G.

Sec. 6. Minnesota Statutes 1994, section 103G.121, subdivision 1, is amended to read:

Subdivision 1. **SURVEYS AND INVESTIGATIONS.** ~~(a)~~ The commissioner may conduct surveys, investigations, and studies, and prepare maps of the waters of the state and topography of the state to implement this chapter.

~~(b) Under the direction of the commissioner, the director shall be responsible for providing the surveys and engineering investigations required by this chapter.~~

Sec. 7. Minnesota Statutes 1994, section 103G.135, is amended to read:

103G.135 ENFORCEMENT OF COMMISSIONER'S ORDERS.

Upon application of the commissioner, the district court of a county where a project is entirely or partially located may by injunction enforce compliance with, or restrain the violation of, an order of the commissioner made under ~~this chapter chapter~~ 103F or 103G, or restrain the violation of ~~this chapter chapter~~ 103F or 103G.

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Sec. 8. Minnesota Statutes 1994, section 103G.245, subdivision 3, is amended to read:

Subd. 3. **PERMIT APPLICATION.** Application for a public waters work permit must be in writing to the commissioner on forms prescribed by the commissioner. The commissioner may issue a state general permit to a governmental subdivision for classes of activities having minimal impact upon public waters under which more than one project may be conducted under a single permit.

Sec. 9. Minnesota Statutes 1994, section 103G.245, subdivision 5, is amended to read:

Subd. 5. **DELEGATION OF PERMIT AUTHORITY TO LOCAL UNITS OF GOVERNMENT.** The commissioner may adopt rules to identify classes of activities in waterbasins and classes of watercourses where the commissioner may delegate public waters work permit authority to the appropriate county or municipality or to watershed districts or watershed management organizations that have elected to assert local authority over protected waters. The public waters work permit authority must be delegated under guidelines of the commissioner and the delegation must be done by agreement with the involved county ~~or~~ municipality, watershed district, or water management organization and in compliance with section 103G.315.

Sec. 10. Minnesota Statutes 1994, section 103G.271, subdivision 2, is amended to read:

Subd. 2. **PERMITS MUST BE CONSISTENT WITH STATE AND LOCAL PLANS.** A water use permit may not be issued under this section unless it is consistent with state, regional, and local water and related land resources management plans if the regional and local plans are consistent with statewide plans.

Sec. 11. Minnesota Statutes 1994, section 103G.275, subdivision 1, is amended to read:

Subdivision 1. **PERMIT REQUIRED.** The owner of an installation for appropriating or using waters of the state may not increase the pumping capacity or make any major change in the installation without a water use permit first applying in writing for, and obtaining, the written permit of the commissioner.

Sec. 12. Minnesota Statutes 1994, section 103G.295, subdivision 4, is amended to read:

Subd. 4. **CLASS B PERMIT REQUIREMENTS.** (a) Class B groundwater ~~water~~ use permit applications are not complete until the applicant has supplied:

(1) a summary of the anticipated well depth and subsurface geologic formation expected to be penetrated by the well, including for glacial drift aquifers, the logs of test holes drilled to locate the site of the proposed production well;

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- (2) the formation and aquifer expected to serve as the groundwater source;
- (3) the maximum daily, seasonal, and annual pumpage expected;
- (4) the anticipated groundwater quality in terms of the measures of quality commonly specified for the proposed water use;

(5) the results of a pumping test supervised by the commissioner or a designee of the commissioner, conducted at a rate not to exceed the proposed pumping rate for not more than 72 continuous hours for wells under water table conditions and not more than 24 continuous hours for wells under artesian conditions; and

(6) when the area of influence of the proposed well is determined, the location of existing wells within the area of influence that were reported according to section 103I.205, subdivision 9, together with readily available facts on depths, geologic formations, pumping and nonpumping water levels, and details of well construction as related to the water well construction code.

(b) The commissioner may in any specific application waive any requirements of paragraph (a), clauses (4) to (6), or (c) if the necessary data are already available.

(c) Before, during, and after the pumping test required in paragraph (a), clause (5), the commissioner shall require monitoring of water levels in one observation well located at a distance from the pumping well that the commissioner has reason to believe may be affected by the new appropriation. The permit applicant is responsible for costs of the pumping tests and monitoring in the observation well. The applicant is responsible for the construction of one observation well if suitable existing wells cannot be located for this purpose. If the commissioner determines that more than one observation well is needed, the commissioner shall instruct the applicant to install and monitor more observation wells. The commissioner shall reimburse the applicant for these added costs.

Sec. 13. Minnesota Statutes 1994, section 103G.301, subdivision 2, is amended to read:

Subd. 2. **PERMIT APPLICATION FEES.** (a) An application for a permit authorized under this chapter, and each request to amend or transfer an existing permit, must be accompanied by a permit application fee to defray the costs of receiving, recording, and processing the application or request to amend or transfer.

(b) The application fee for a permit to appropriate water, a permit to construct or repair a dam that is subject to dam safety inspection, a state general permit, or to apply for the state water bank program is \$75. The application fee for a permit to work in public waters or to divert waters for mining must be at least \$75, but not more than \$500, in accordance with a schedule of fees adopted under section 16A.128.

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Sec. 14. Minnesota Statutes 1994, section 103G.315, subdivision 12, is amended to read:

Subd. 12. **PERMIT NOT ISSUED UNTIL FEES ARE PAID.** Except for field inspection fees related to monitoring, the commissioner may not issue a permit until all fees required by ~~this~~ this section 103G.301 relating to the issuance of a permit have been paid. The time limits prescribed by section 103G.305, subdivision 1, do not apply to an application for which the appropriate fee has not been paid. Field inspection fees relating to monitoring of an activity authorized by a permit may be charged and collected as necessary at any time after the issuance of the permit.

Sec. 15. Minnesota Statutes 1994, section 103G.315, subdivision 15, is amended to read:

Subd. 15. **RULES FOR ISSUANCE AND DENIAL OF PERMITS.** The commissioner shall adopt rules prescribing standards and criteria for issuing and denying water use permits; ~~and~~ and public waters work permits; ~~and~~ and ~~water level control permits issued under section 103G.405.~~

Sec. 16. Minnesota Statutes 1994, section 103G.511, subdivision 12, is amended to read:

Subd. 12. **PRIORITY LIST OF DAMS NEEDING REPAIR.** After reviewing examinations of dams owned by the state and political subdivisions, the commissioner shall prioritize the state and political subdivision dams in need of repair ~~or~~ or, reconstruction, or removal and report ~~annually~~ annually by June 1 of each odd-numbered year to the legislature. The commissioner must prioritize projects considering danger to life, damage to property, and the factors listed in subdivision 6.

Sec. 17. Minnesota Statutes 1994, section 103G.515, is amended by adding a subdivision to read:

Subd. 5. REMOVAL OF HAZARDOUS DAMS. Notwithstanding any provision of this section or of section 103G.511 relating to cost sharing or apportionment, the commissioner, within the limits of legislative appropriation, may assume or pay the entire cost of removal of a privately or publicly owned dam upon determining that continued existence of the structure presents a significant public safety hazard, or prevents restoration of an important fisheries resource, or that public or private property is being damaged due to partial failure of the structure, and that an attempt to assess costs of removal against the private or public owner would be of no avail.

Sec. 18. Minnesota Statutes 1994, section 103G.611, subdivision 3, is amended to read:

Subd. 3. **PUBLICATION OF NOTICE.** Advance public notice of the commencement of any aeration system, authorized by a water aeration permit from

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the commissioner during periods of ice cover on public waters, must be given by the permittee. Minimum notice consists of publication of the location and date of commencement of the aeration system in a newspaper of general circulation in the area where the system is proposed to be operated at least two times between five and 60 days before aeration is started.

Sec. 19. CONSTRUCTION OF SEAWALL BY HENNEPIN COUNTY ON LAKE MINNETONKA.

Notwithstanding Minnesota Statutes, section 103G.245, subdivision 1, the commissioner of natural resources shall issue a public waters work permit authorizing Hennepin county to construct a new seawall at the site of the county's water patrol building located at Spring Park Bay on Lake Minnetonka, provided that the new seawall may not extend more than 15 feet further into the lake than the existing seawall.

Sec. 20. EFFECTIVE DATE.

This act is effective the day following final enactment.

Presented to the governor May 22, 1995

Signed by the governor May 24, 1995, 10:16 a.m.

CHAPTER 219—H.F.No. 96

An act relating to insurance; health plans; prohibiting provisions that grant the health carrier a subrogation right, except where the covered person has been fully compensated from another source; proposing coding for new law in Minnesota Statutes, chapter 62A.

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

Section 1. [62A.095] SUBROGATION CLAUSES REGULATED.

Subdivision 1. APPLICABILITY. No health plan shall be offered, sold, or issued to a resident of this state, or to cover a resident of this state, unless the health plan complies with subdivision 2.

Subd. 2. SUBROGATION CLAUSE; LIMITS. No health plan described in subdivision 1 shall contain a subrogation, reimbursement, or similar clause that provides subrogation, reimbursement, or similar rights to the health carrier issuing the health plan, unless:

(1) the clause provides that it applies only after the covered person has received a full recovery from another source; and

(2) the clause provides that the health carrier's subrogation right is subject to subtraction for actual monies paid to account for the pro rata share of the covered person's costs, disbursements, and reasonable attorney fees, and other expenses incurred in obtaining the recovery from another source unless the health carrier is separately represented by an attorney.

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