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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH SESSION

H. F. No. **2395**

02/20/2012 Authored by Anderson, P.

The bill was read for the first time and referred to the Committee on Environment, Energy and Natural Resources Policy and Finance

1.1 A bill for an act
1.2 relating to natural resources; authorizing and clarifying the use of general
1.3 permits; amending Minnesota Statutes 2010, sections 84.0895, subdivision
1.4 7; 97A.401, subdivision 1; 103G.245, subdivision 3; 103G.271, subdivision
1.5 1; 103G.301, subdivisions 2, 4, 5, 5a; 103G.611, by adding a subdivision;
1.6 Minnesota Statutes 2011 Supplement, section 103G.615, subdivisions 1, 2.

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

1.8 Section 1. Minnesota Statutes 2010, section 84.0895, subdivision 7, is amended to read:

1.9 Subd. 7. **General exceptions.** (a) The commissioner may issue permits and
1.10 prescribe conditions for an act otherwise prohibited by subdivision 1 if:

- 1.11 (1) the act is for the purpose of zoological, educational, or scientific study;
1.12 (2) the act enhances the propagation or survival of the affected species;
1.13 (3) the act prevents injury to persons or property; or
1.14 (4) the social and economic benefits of the act outweigh the harm caused by it.

1.15 (b) The commissioner may issue a general permit to a governmental subdivision or
1.16 to the general public to conduct one or more acts described in paragraph (a).

1.17 (c) A member of an endangered species may not be destroyed under paragraph (a),
1.18 clause (3) or (4), until all alternatives, including live trapping and transplantation, have
1.19 been evaluated and rejected. The commissioner may prescribe conditions to propagate
1.20 a species or subspecies.

1.21 ~~(e)~~ (d) A person may capture or destroy a member of an endangered species, without
1.22 permit, to avoid an immediate and demonstrable threat to human life or property.

1.23 ~~(d)~~ (e) The commissioner must give approval under this subdivision for forest
1.24 management, including permit, sale, or lease of land for timber harvesting.

2.1 Sec. 2. Minnesota Statutes 2010, section 97A.401, subdivision 1, is amended to read:

2.2 Subdivision 1. **Commissioner's authority.** The commissioner may issue special
 2.3 permits for the activities in this section. A special permit may be issued in the form of a
 2.4 general permit to a governmental subdivision or to the general public to conduct one or
 2.5 more activities under subdivisions 2 to 7.

2.6 Sec. 3. Minnesota Statutes 2010, section 103G.245, subdivision 3, is amended to read:

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

2.12 Sec. 4. Minnesota Statutes 2010, section 103G.271, subdivision 1, is amended to read:

2.13 Subdivision 1. **Permit required.** (a) Except as provided in paragraph (b), the state,
 2.14 a person, partnership, or association, private or public corporation, county, municipality,
 2.15 or other political subdivision of the state may not appropriate or use waters of the state
 2.16 without a water use permit from the commissioner.

2.17 (b) This section does not apply to use for a water supply by less than 25 persons for
 2.18 domestic purposes.

2.19 (c) The commissioner may issue a state general permit for appropriation of water
 2.20 to a governmental subdivision or to the general public ~~for classes of activities that have~~
 2.21 ~~minimal impact upon waters of the state.~~ The general permit may authorize more than
 2.22 one project and the appropriation or use of more than one source of water. Water use
 2.23 permit processing fees and reports required under subdivision 6 and section 103G.281,
 2.24 subdivision 3, are required for each project or water source that is included under a
 2.25 general permit, except that no fee is required for uses totaling less than 15,000,000 gallons
 2.26 annually.

2.27 Sec. 5. Minnesota Statutes 2010, section 103G.301, subdivision 2, is amended to read:

2.28 Subd. 2. **Permit application and notification fees.** (a) ~~A permit application~~ fee
 2.29 to defray the costs of receiving, recording, and processing ~~the application~~ must be paid
 2.30 for a permit application authorized under this chapter ~~and~~, except for a general permit
 2.31 application, for each request to amend or transfer an existing permit, and for a notification
 2.32 to request authorization to conduct a project under a general permit. Fees established

3.1 under this subdivision, unless specified in paragraph (c), shall be compliant with section
3.2 16A.1285.

3.3 (b) Proposed projects that require water in excess of 100 million gallons per year
3.4 must be assessed fees to recover the costs incurred to evaluate the project and the costs
3.5 incurred for environmental review. Fees collected under this paragraph must be credited
3.6 to an account in the natural resources fund and are appropriated to the commissioner.

3.7 (c) The fee to apply for a permit to appropriate water, in addition to any fee under
3.8 paragraph (b); and for a permit to construct or repair a dam that is subject to dam safety
3.9 inspection; or a state general permit is \$150. The application fee for a permit to work in
3.10 public waters or to divert waters for mining must be at least \$150, but not more than
3.11 \$1,000. The fee for a notification to request authorization to conduct a project under a
3.12 general permit is \$100.

3.13 Sec. 6. Minnesota Statutes 2010, section 103G.301, subdivision 4, is amended to read:

3.14 Subd. 4. **Refund of fees prohibited.** A permit application, general permit
3.15 notification, or field inspection fee may not be refunded for any reason, even if the
3.16 application or request is denied or withdrawn.

3.17 Sec. 7. Minnesota Statutes 2010, section 103G.301, subdivision 5, is amended to read:

3.18 Subd. 5. **State and federal agencies exempt from fee.** A permit application,
3.19 general permit notification, or field inspection fee may not be imposed on any state agency,
3.20 as defined in section 16B.01, or federal governmental agency applying for a permit.

3.21 Sec. 8. Minnesota Statutes 2010, section 103G.301, subdivision 5a, is amended to read:

3.22 Subd. 5a. **Town fees limited.** Notwithstanding this section or any other law, no
3.23 permit application, general permit notification, or field inspection fee charged to a town
3.24 in connection with the construction or alteration of a town road, bridge, or culvert shall
3.25 exceed \$100.

3.26 Sec. 9. Minnesota Statutes 2010, section 103G.611, is amended by adding a
3.27 subdivision to read:

3.28 Subd. 1a. **General permits.** The commissioner may issue a general permit to
3.29 a governmental subdivision or to the general public to conduct one or more projects
3.30 described in subdivision 1. A fee of \$100 may be charged for each aeration system used
3.31 under a general permit.

4.1 Sec. 10. Minnesota Statutes 2011 Supplement, section 103G.615, subdivision 1,
4.2 is amended to read:

4.3 Subdivision 1. **Issuance; validity.** (a) The commissioner may issue a state general
4.4 permit to a governmental subdivision or to the general public to conduct one or more
4.5 projects described in this subdivision. The commissioner may issue permits, with or
4.6 without a fee, to:

4.7 (1) gather or harvest aquatic plants, or plant parts, other than wild rice from public
4.8 waters;

4.9 (2) transplant aquatic plants into public waters;

4.10 (3) destroy harmful or undesirable aquatic vegetation or organisms in public waters
4.11 under prescribed conditions to protect the waters, desirable species of fish, vegetation,
4.12 other forms of aquatic life, and the public.

4.13 (b) Application for a permit and a notification to request authorization to conduct a
4.14 project under a general permit must be accompanied by a ~~permit~~ fee, if required.

4.15 (c) An aquatic plant management permit is valid for one growing season and expires
4.16 on December 31 of the year it is issued unless the commissioner stipulates a different
4.17 expiration date in rule or in the permit.

4.18 (d) A general permit may authorize a project for more than one growing season.

4.19 Sec. 11. Minnesota Statutes 2011 Supplement, section 103G.615, subdivision 2,
4.20 is amended to read:

4.21 Subd. 2. **Fees.** (a) The commissioner shall establish a fee schedule for permits to
4.22 control or harvest aquatic plants other than wild rice. The fees must be set by rule, and
4.23 section 16A.1283 does not apply, but the rule must not take effect until 45 legislative
4.24 days after it has been reported to the legislature. The fees shall not exceed \$2,500 per
4.25 permit and shall be based upon the cost of receiving, processing, analyzing, and issuing
4.26 the permit, and additional costs incurred after the application to inspect and monitor
4.27 the activities authorized by the permit, and enforce aquatic plant management rules and
4.28 permit requirements.

4.29 (b) A fee for a permit for the control of rooted aquatic vegetation for each contiguous
4.30 parcel of shoreline owned by an owner may be charged. This fee may not be charged for
4.31 permits issued in connection with purple loosestrife control or lakewide Eurasian water
4.32 milfoil control programs.

4.33 (c) A fee may not be charged to the state or a federal governmental agency applying
4.34 for a permit.

5.1 (d) A fee for a permit for the control of rooted aquatic vegetation in a public
5.2 water basin that is 20 acres or less in size shall be one-half of the fee established under
5.3 paragraph (a).

5.4 (e) The money received for the permits under this subdivision shall be deposited in
5.5 the treasury and credited to the water recreation account.

5.6 (f) The fee for processing a notification to request authorization for work under a
5.7 general permit is \$30, until the commissioner establishes a fee by rule as provided under
5.8 this subdivision.