

HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH SESSION

H. F. No. 2634

03/05/2012 Authored by Torkelson; Fabian; Anderson, B., and Kiel
The bill was read for the first time and referred to the Committee on Environment, Energy and Natural Resources Policy and Finance
03/14/2012 Adoption of Report: Pass and re-referred to the Committee on Government Operations and Elections
03/26/2012 Adoption of Report: Pass and Read Second Time
03/29/2012 Calendar for the Day
Read Third Time
Passed by the House and transmitted to the Senate

1.1 A bill for an act
1.2 relating to environment; providing for alternative local standards for subsurface
1.3 sewage treatment systems; requiring rulemaking; amending Minnesota Statutes
1.4 2010, section 115.55, subdivision 7.

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

1.6 Section 1. Minnesota Statutes 2010, section 115.55, subdivision 7, is amended to read:

1.7 Subd. 7. Local standards. (a) Existing systems. Counties may adopt by ordinance
1.8 local standards that are less restrictive than the agency's rules in order to define an
1.9 acceptable existing system. The local standards may include soil separation, soil
1.10 classification, vegetation, system use, localized well placement and construction, localized
1.11 density of systems and wells, extent of area to be covered by local standards, groundwater
1.12 flow patterns, and existing natural or artificial drainage systems. The local standards
1.13 and criteria shall be submitted to the commissioner for comment prior to adoption to
1.14 demonstrate that, based on local circumstances in that jurisdiction, they adequately protect
1.15 public health and the environment.

1.16 (b) New or replacement systems. Counties, after providing documentation of
1.17 conditions listed in this paragraph to the commissioner, may adopt by ordinance local
1.18 standards that are less restrictive than the agency's rules for new system construction or
1.19 replacement in areas of sustained and projected low population density where conditions
1.20 render conformance to applicable requirements difficult or otherwise inappropriate.
1.21 Documentation may include a map delineating the area of the county to be served by the
1.22 local standards, a description of the hardship that would result from strict adherence to the
1.23 agency's rules, and evidence of sustained and projected low population density. The local
1.24 standards must protect human health and the environment and be based on considerations

2.1 that may include, but need not be limited to, soil separation, soil classification, vegetation,  
 2.2 system use, localized well placement and construction, localized density of systems  
 2.3 and wells, extent of area to be covered by local standards, groundwater flow patterns,  
 2.4 and existing natural or artificial drainage systems. The local standards must provide  
 2.5 cost-effective and long-term treatment alternatives. The draft ordinance incorporating the  
 2.6 local standards must be submitted with justification to the commissioner 30 days before  
 2.7 adoption for review and comment.

2.8 (c) **New or replacement systems; local ordinances.** A local unit of government  
 2.9 may adopt and enforce ordinances or rules affecting new or replacement subsurface  
 2.10 sewage treatment systems that are more restrictive than the agency's rules. A local unit  
 2.11 of government may not adopt or enforce an ordinance or rule if its effect is to prevent or  
 2.12 delay recording with the county recorder or registrar of titles of a deed or other instrument  
 2.13 that is otherwise entitled to be recorded.

2.14 (d) **Local standards; conflict with state law.** Local standards adopted under  
 2.15 paragraph (a) or (b) must not conflict with any requirements under other state laws or rules  
 2.16 or local ordinances, including, but not limited to, requirements for:

- 2.17 (1) systems in shoreland areas, regulated under sections 103F.201 to 103F.221;  
 2.18 (2) well construction and location, regulated under chapter 103I; and  
 2.19 (3) systems used in connection with food, beverage, and lodging establishments,  
 2.20 regulated under chapter 157.

2.21 Alternative local standards for new or replacement residential systems with flow of  
 2.22 2,500 gallons per day or less may be applied to systems listed in clause (1), provided the  
 2.23 alternative standards are no less stringent than provisions of Minnesota Rules, chapter  
 2.24 7080, that went into effect on April 3, 2006. In addition, alternative local standards for  
 2.25 new or replacement systems with flow of 2,500 gallons per day or less may be applied to  
 2.26 systems listed in clause (3), provided the alternative standards are no less stringent than  
 2.27 provisions of Minnesota Rules, chapter 7080, that went into effect on April 3, 2006,  
 2.28 except that the waste strength must meet the standards established in Minnesota Rules,  
 2.29 part 7080.2150, subpart 3, item K. If additional treatment of waste is needed to meet this  
 2.30 standard, the treatment must be in accordance with Minnesota Rules, part 7080.2150,  
 2.31 subpart 3, item A. The local standards must include references to applicable requirements  
 2.32 under other state laws or rules or local ordinances. Nothing in this paragraph prevents  
 2.33 a local subsurface sewage treatment system ordinance from including provisions of the  
 2.34 current rule as part of the alternative local standards.

2.35 Sec. 2. **RULEMAKING.**

3.1 The commissioner of the Pollution Control Agency must amend Minnesota Rules  
3.2 to conform to section 1. The commissioner may use the good cause exemption under  
3.3 Minnesota Statutes, section 14.388, subdivision 1, clause (3), and Minnesota Statutes,  
3.4 section 14.386, does not apply, except as provided in Minnesota Statutes, section 14.388.