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State of Minnesota HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. **4050**

03/04/2020 Authored by Acomb, Lillie, Morrison and Fischer
The bill was read for the first time and referred to the Legacy Finance Division

1.1 A bill for an act
1.2 relating to legacy; ensuring that priority for using clean water fund money is
1.3 implementing restoration and protection projects; amending Minnesota Statutes
1.4 2018, sections 114D.20, subdivision 6; 114D.50, subdivision 4; Minnesota Statutes
1.5 2019 Supplement, sections 114D.20, subdivisions 5, 7; 114D.26, subdivision 3.

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

1.7 Section 1. Minnesota Statutes 2019 Supplement, section 114D.20, subdivision 5, is
1.8 amended to read:

1.9 Subd. 5. **Priorities for scheduling and preparing WRAPSs and TMDLs.** The
1.10 commissioner of the Pollution Control Agency must seek recommendations from the Clean
1.11 Water Council; the commissioners of natural resources, health, and agriculture; and the
1.12 Board of Water and Soil Resources regarding priorities for scheduling and preparing
1.13 WRAPSs and TMDLs. Recommendations must be consistent with the timelines set forth
1.14 in section 114D.26, subdivision 3, and must consider the causes of impairments, the
1.15 designated uses of the waters, applicable federal TMDL requirements, surface water and
1.16 groundwater interactions, protection of high-quality waters, waters and watersheds with
1.17 declining water quality trends, and waters used as drinking water sources. Furthermore,
1.18 consideration must be given to waters and watersheds:

- 1.19 (1) that have the greatest potential risk to human health;
- 1.20 (2) that have the greatest potential risk to threatened or endangered species;
- 1.21 (3) that have the greatest potential risk to aquatic health;
- 1.22 (4) where other public agencies and participating organizations and individuals, especially
- 1.23 local, basin-wide, watershed, or regional agencies or organizations, have demonstrated

2.1 readiness to assist in carrying out the responsibilities, including availability and organization
2.2 of human, technical, and financial resources necessary to undertake the work; and

2.3 (5) where there is demonstrated coordination and cooperation among cities, counties,
2.4 watershed districts, and soil and water conservation districts in planning and implementation
2.5 of activities that will assist in carrying out the responsibilities.

2.6 Sec. 2. Minnesota Statutes 2018, section 114D.20, subdivision 6, is amended to read:

2.7 Subd. 6. ~~Priorities for~~ Recommendations to prioritize restoring impaired waters. ~~In~~
2.8 ~~implementing restoration of impaired waters, in addition to the priority considerations in~~
2.9 ~~subdivision 5, the Clean Water Council shall give priority in its recommendations for~~
2.10 ~~restoration~~ Once an initial watershed restoration and protection strategy has been completed
2.11 for each of the state's major watersheds, other than those for which the commissioner has
2.12 determined that a comprehensive watershed management plan or comprehensive local water
2.13 management plan meets the definition in section 114D.15, subdivision 11 or 13, the Clean
2.14 Water Council must give priority in its recommendations to funding from the clean water
2.15 fund to for restoration projects that:

2.16 (1) coordinate with and utilize existing local authorities and infrastructure for
2.17 implementation;

2.18 (2) can be implemented in whole or in part by providing support for existing or ongoing
2.19 restoration efforts;

2.20 (3) most effectively leverage other sources of restoration funding, including federal,
2.21 state, local, and private sources of funds;

2.22 (4) show a high potential for early restoration and delisting based upon scientific data
2.23 developed through public agency or citizen monitoring or other means; ~~and~~

2.24 (5) show a high potential for long-term water quality and related conservation benefits;

2.25 (6) restore those impaired waters that are closest to meeting applicable water quality
2.26 standards; and

2.27 (7) show a high potential to restore a public use or a public health benefit, including the
2.28 use of waters as a source of drinking water.

3.1 Sec. 3. Minnesota Statutes 2019 Supplement, section 114D.20, subdivision 7, is amended
3.2 to read:

3.3 Subd. 7. **Priorities for funding prevention actions.** The Clean Water Council shall
3.4 apply the priorities applicable under subdivision 6, as far as practicable, when recommending
3.5 priorities for funding actions to prevent groundwater and surface waters from becoming
3.6 degraded or impaired and to improve the quality of surface waters that are listed as impaired.
3.7 Additionally, in recommending priorities for funding actions to prevent groundwater and
3.8 surface waters from becoming degraded or impaired, the Clean Water Council
3.9 recommendations must prioritize protecting those high-quality unimpaired waters that are
3.10 most at risk of becoming impaired.

3.11 Sec. 4. Minnesota Statutes 2019 Supplement, section 114D.26, subdivision 3, is amended
3.12 to read:

3.13 Subd. 3. **Timelines; administration.** (a) The commissioner of the Pollution Control
3.14 Agency must complete a watershed restoration and protection strategies strategy for each
3.15 of the state's major watersheds by June 30, 2023, unless the commissioner determines that
3.16 a comprehensive watershed management plan or comprehensive local water management
3.17 plan, in whole or in part, meets the definition in section 114D.15, subdivision 11 or 13. ~~As~~
3.18 ~~needed~~ After August 1, 2026, the commissioner ~~must~~ may update the strategies, in whole
3.19 or in part, after consulting with the Board of Water and Soil Resources and local government
3.20 units.

3.21 (b) Watershed restoration and protection strategies are governed by the procedures for
3.22 approval and notice in section 114D.25, subdivisions 2 and 4, except that the strategies need
3.23 not be submitted to the United States Environmental Protection Agency.

3.24 Sec. 5. Minnesota Statutes 2018, section 114D.50, subdivision 4, is amended to read:

3.25 Subd. 4. **Expenditures; accountability.** (a) A project receiving funding from the clean
3.26 water fund must meet or exceed the constitutional requirements to protect, enhance, and
3.27 restore water quality in lakes, rivers, and streams and to protect groundwater and drinking
3.28 water from degradation. Priority may be given to projects that meet more than one of these
3.29 requirements. A project receiving funding from the clean water fund shall include measurable
3.30 outcomes, as defined in section 3.303, subdivision 10, and a plan for measuring and
3.31 evaluating the results. A project must be consistent with current science and incorporate
3.32 state-of-the-art technology.

4.1 (b) Money from the clean water fund ~~shall~~ must be expended to ~~balance the benefits~~
4.2 ~~across~~ benefit all regions and residents of the state.

4.3 (c) A state agency or other recipient of a direct appropriation from the clean water fund
4.4 must compile and submit all information for proposed and funded projects or programs,
4.5 including the proposed measurable outcomes, the manner in which the proposed or funded
4.6 project or program satisfies the requirements of section 114D.20, subdivisions 6 and 7, and
4.7 all other items required under section 3.303, subdivision 10, to the Legislative Coordinating
4.8 Commission and the Clean Water Council as soon as practicable or by January 15 of the
4.9 applicable fiscal year, whichever comes first. The Legislative Coordinating Commission
4.10 must post submitted information on the website required under section 3.303, subdivision
4.11 10, as soon as it becomes available. Information classified as not public under section
4.12 13D.05, subdivision 3, paragraph (d), is not required to be placed on the website.

4.13 (d) Grants funded by the clean water fund must be implemented according to section
4.14 16B.98 and must account for all expenditures. Proposals must specify a process for any
4.15 regranting envisioned. Priority for grant proposals must be given to proposals involving
4.16 grants that will be competitively awarded.

4.17 (e) Money from the clean water fund may only be spent on projects that benefit Minnesota
4.18 waters.

4.19 (f) When practicable, a direct recipient of an appropriation from the clean water fund
4.20 shall prominently display on the recipient's website home page the legacy logo required
4.21 under Laws 2009, chapter 172, article 5, section 10, as amended by Laws 2010, chapter
4.22 361, article 3, section 5, accompanied by the phrase "Click here for more information."
4.23 When a person clicks on the legacy logo image, the website must direct the person to a web
4.24 page that includes both the contact information that a person may use to obtain additional
4.25 information, as well as a link to the Legislative Coordinating Commission website required
4.26 under section 3.303, subdivision 10.

4.27 (g) Future eligibility for money from the clean water fund is contingent upon a state
4.28 agency or other recipient satisfying all applicable requirements in this section, as well as
4.29 any additional requirements contained in applicable session law. If the Office of the
4.30 Legislative Auditor, in the course of an audit or investigation, publicly reports that a recipient
4.31 of money from the clean water fund has not complied with the laws, rules, or regulations
4.32 in this section or other laws applicable to the recipient, the recipient must be listed in an
4.33 annual report to the legislative committees with jurisdiction over the legacy funds. The list
4.34 must be publicly available. The legislative auditor shall remove a recipient from the list

5.1 upon determination that the recipient is in compliance. A recipient on the list is not eligible
5.2 for future funding from the clean water fund until the recipient demonstrates compliance
5.3 to the legislative auditor.

5.4 (h) Money from the clean water fund may be used to leverage federal funds through
5.5 execution of formal project partnership agreements with federal agencies consistent with
5.6 respective federal agency partnership agreement requirements.

5.7 (i) Any state agency or organization requesting a direct appropriation from the clean
5.8 water fund must inform the Clean Water Council and the house of representatives and senate
5.9 committees having jurisdiction over the clean water fund, at the time the request for funding
5.10 is made, whether the request is supplanting or is a substitution for any previous funding that
5.11 was not from a legacy fund and was used for the same purpose.

5.12 (j) Except as required by federal law, when an appropriation from the clean water fund
5.13 does not identify one or more specific projects to be completed, the recipient must prioritize
5.14 using the appropriation to restore those impaired waters that are closest to meeting applicable
5.15 water quality standards or to protect high-quality waters that are not impaired before using
5.16 the money for other purposes. Implementing nonpoint restoration and protection projects
5.17 described in a nonpoint priority funding plan produced according to subdivision 3a satisfies
5.18 this requirement.