

## CHAPTER 114B

## MISSISSIPPI RIVER HEADWATERS AREA

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**114B.01 PURPOSE AND INTENT.**

The legislature finds that:

(a) The Mississippi river from its outlet at Lake Itasca, Clearwater county, to the southerly boundary of Morrison county, Minnesota, possesses outstanding and unique natural, scientific, historical, recreational and cultural values deserving of protection and enhancement;

(b) The counties of Clearwater, Hubbard, Beltrami, Cass, Itasca, Aitkin, Crow Wing and Morrison have entered into a joint powers agreement pursuant to law for the purpose of developing a plan for the protection and enhancement of the foregoing values; and

(c) The plan adopted by the counties pursuant to the joint powers agreement establishes guidelines and minimum standards for cooperative local management of this segment of the Mississippi river.

It is the intent of sections 114B.01 to 114B.07 to authorize and direct the joint board and the counties to implement this comprehensive plan for the Mississippi headwaters area.

**History:** 1981 c 246 s 1

**114B.02 MISSISSIPPI HEADWATERS BOARD.**

Subdivision 1. **Definitions.** For the purpose of sections 114B.01 to 114B.06, the following terms have the meanings given them in this subdivision unless the context clearly requires otherwise.

(a) **Board.** "Board" means the Mississippi headwaters board established pursuant to subdivision 2 or those counties that have complied with Laws 1981, chapter 246, section 8.

(b) **Counties.** "Counties" means the counties of Clearwater, Hubbard, Beltrami, Cass, Itasca, Aitkin, Crow Wing and Morrison.

**Subd. 2. Establishment.** The Mississippi headwaters board established by the counties of Clearwater, Hubbard, Beltrami, Cass, Itasca, Aitkin, Crow Wing and Morrison by agreement entered into on February 22, 1980, pursuant to section 471.59, is hereby established as a permanent board with authority to prepare, adopt and implement a comprehensive land use plan designed to protect and enhance the Mississippi River and related shoreland areas situated within the counties.

**Subd. 3. Membership; terms; vacancies.** The board shall consist of eight members. The governing body of each county shall appoint one of its members to serve on the board. The members appointed to the board and serving on the effective date of this section shall constitute the first board as provided in this subdivision. The term of a member serving on the board on the effective date of this section shall expire on the first Monday in January of 1983. Thereafter, the terms of board members shall be two years commencing on the first Monday in January of odd-numbered years. Vacancies on the board shall be filled for the remainder of the term by the governing body that made the original appointment. The governing body of a county may designate another member of the governing body or a county officer to act as an alternate for the member appointed by that county.

**Subd. 4. Officers.** The board shall annually appoint from among its members a chair, vice-chair and secretary-treasurer who shall serve for concurrent one year terms.

The chair shall preside over all meetings of the board and may call special meetings at reasonable times and upon adequate notice when necessary. The vice-chair shall preside over the meetings of the board in the absence of the chair. The secretary-treasurer or the designee thereof shall keep a record of all proceedings of the board. The secretary-treasurer shall provide for the proper receipt and disbursement of funds.

**Subd. 5. Meetings.** The regular meetings of the board shall be held at times and places prescribed by it. A majority of all members of the board shall constitute a quorum and a majority vote of all members shall be required for actions taken by the board.

**History:** 1981 c 246 s 2; 1986 c 444

### 114B.03 COMPREHENSIVE PLAN.

**Subdivision 1. Existing plan confirmed; minimum standards.** The comprehensive land use plan prepared by the board and approved by resolution adopted on February 12, 1981, shall be the comprehensive land use plan authorized by section 114B.02, subdivision 2, and shall be implemented by the board as provided in this section and section 114B.04. The counties shall adopt land use ordinances consistent with the comprehensive land use plan of the board. The standards set forth in the plan are the minimum standards which may be adopted by the board and by the counties for the protection and enhancement of the natural, scientific, historical, recreational and cultural values of the Mississippi river and related shoreland areas subject to the plan. Except for forest management, fish and wildlife habitat improvement, and open space recreational uses as defined in the plan, no state or county lands within the boundaries established by the plan shall be offered for public sale or lease. The board with the agreement, expressed by resolution adopted after public hearing, of the county boards of Clearwater, Hubbard, Beltrami, Cass, Itasca, Aitkin, Crow Wing, and Morrison counties may amend the plan in any way that does not reduce the minimum standards set forth in the plan approved on February 12, 1981.

**Subd. 2. Advisory committees; hearings.** The board shall appoint advisory committees, representing a broad geographical area and diverse public interests, and conduct public meetings and hearings necessary to afford the public an opportunity to become fully informed of all deliberations in the preparation and implementation of the plan.

**Subd. 3. Governmental agencies.** The board shall initiate and maintain contacts with governmental agencies as necessary to properly prepare the plan and shall negotiate cooperative management agreements with the United States forest service and bureau of land management and the state department of natural resources. The board, Beltrami, Cass, Hubbard, and Itasca Counties shall initiate and maintain contacts with the governing body of the Leech Lake Indian Reservation and shall negotiate a cooperative management and jurisdiction agreement with the reservation governing body on or before September 1, 1981.

**Subd. 4. Leech Lake Indian Reservation.** Sections 114B.01 to 114B.07 shall not be construed to alter or expand the zoning jurisdiction of the counties within the exterior boundaries of the Leech Lake Indian Reservation. The comprehensive plan of the board and the county ordinances adopted pursuant to section 114B.03, subdivision 1, shall apply only to areas within the zoning jurisdiction of the counties as provided by law in effect prior to the enactment of sections 114B.01 to 114B.07.

**Subd. 5. Implementation.** The board shall develop and establish a schedule for implementation and common administration of the plan by the counties. The schedule shall be binding upon the counties subject to approval by the governing bodies of the respective counties.

**Subd. 6. Funds.** The board shall annually submit to each county for its approval an estimate of the funds it will need from that county in the next fiscal year to prepare

and implement the plan and otherwise carry out the duties imposed upon it by sections 114B.01 to 114B.06. Each county shall, upon approval of the estimate by its governing body, furnish the necessary funds to the board. The board may apply for, receive and disburse federal, state and other grants and donations.

**Subd. 7. Contracts.** The board may employ staff and contract for goods and services as necessary to implement sections 114B.01 to 114B.06. Contracts are subject to the statutory procedures and restrictions applicable to county contracts.

**History:** 1981 c 246 s 3; 1984 c 600 s 2

#### **114B.031 RESPONSIBILITIES OF OTHER GOVERNMENTAL UNITS.**

All local and special governmental units, councils, commissions, boards and districts and all state agencies and departments must exercise their powers so as to further the purposes of sections 114B.01 to 114B.06 and the land use plan adopted by the board on February 12, 1981. Land owned by the state, its agencies, and political subdivisions shall be administered in accordance with the land use plan adopted by the board on February 12, 1981.

**History:** 1984 c 600 s 1

#### **114B.04 REVIEW AND CERTIFICATION OF LAND USE ACTIONS.**

**Subdivision 1. Purpose.** In order to insure that the comprehensive land use plan prepared by the board is not nullified by unjustified exceptions in particular cases and to promote uniformity in the treatment of applications for exceptions, a review and certification procedure is established for the following categories of land use actions taken by the counties and directly or indirectly affecting land use within the area covered by the plan:

- (a) The adoption or amendment of an ordinance regulating the use of land, including rezoning of particular tracts of land;
- (b) The granting of a variance from provisions of the land use ordinance; and
- (c) The approval of a plat which is inconsistent with the land use ordinance.

**Subd. 2. Certification.** Notwithstanding any provision of chapter 394 to the contrary no action of a type specified in subdivision 1, clauses (a) to (c) is effective until the board has reviewed the action and certified that it is consistent with the comprehensive plan of the board. In determining consistency of ordinances and ordinance amendments, the provisions of the comprehensive land use plan shall be considered minimum standards. An aggrieved person may appeal a decision of the type specified in subdivision 1, clauses (a) to (c) which is reviewed by the board under this section in the same manner as provided for review of a decision of a board of adjustment in section 394.27, subdivision 9, but only after the procedures prescribed under this section have been completed.

**Subd. 3. Procedure for certification.** A copy of all notices of public hearings or, when a hearing is not required, a copy of the application to consider any actions of a type specified in subdivision 1, clauses (a) to (c) shall be forwarded to the board by the county at least 15 days prior to the hearing or meetings to consider the actions. The county shall notify the board of its final decision on the proposed action within ten days of the decision. No later than 30 days from the time it receives the notice, the board shall notify the county and the applicant of its approval or disapproval of the proposed action.

**Subd. 4. Disapproval of actions; hearing.** In the case of notice of disapproval issued by the board, either the county or the applicant may, within 30 days of notice, file with the board a demand for a hearing. If no demand is filed during that period, the disapproval becomes final. If a demand is filed during that period, a hearing shall be held within 60 days of demand and shall be preceded by two weeks published notice. Within 30 days after the hearing, the board shall either affirm its disapproval of the proposed action or certify its approval thereof.

**History:** 1981 c 246 s 4

**114B.05 INCORPORATION AND ANNEXATION.**

When land subject to the comprehensive land use plan of the board is annexed, incorporated or otherwise subjected to the land use planning authority of a home rule charter or statutory city, a moratorium shall exist on all subdivision platting and building permits on that land until zoning regulations are adopted for that land which comply with the provisions of the comprehensive plan of the board. The moratorium shall also apply to construction, grading and filling, and vegetative cutting as those activities are defined in the comprehensive plan. This section does not apply to work done pursuant to lawful permits issued before the land became subject to the land use planning authority of the city.

**History:** 1981 c 246 s 5

**114B.06 BIENNIAL REPORT.**

During the first year of each biennial legislative session, the board shall prepare and present to the appropriate policy committees of the legislature a report concerning the actions of the board in exercising the authority granted by the legislature pursuant to sections 114B.01 to 114B.05. The report shall include an assessment of the effectiveness of the board's comprehensive land use plan and its implementation in protecting and enhancing the natural, scientific, historical, recreational and cultural values of the Mississippi river and related shorelands situated within the member counties.

**History:** 1981 c 246 s 6

**114B.07 APPLICABILITY.**

Sections 114B.01 to 114B.06 apply to the counties of Clearwater, Hubbard, Beltrami, Cass, Itasca, Aitkin, Crow Wing and Morrison.