

84.027 POWERS AND DUTIES.

Subdivision 1. **Powers and duties.** The commissioner of natural resources shall be the administrative and executive head of the department. Subject to the provisions hereof and other applicable laws, the commissioner shall have the powers and duties herein prescribed. The enumeration of specific powers and duties herein shall not limit or exclude other powers or duties.

Subd. 2. **General.** The commissioner shall have charge and control of all the public lands, parks, timber, waters, minerals, and wild animals of the state and of the use, sale, leasing, or other disposition thereof, and of all records pertaining to the performance of the commissioner's functions relating thereto.

Subd. 3. **Former powers and duties of commissioner of conservation.** The commissioner shall have all the powers and duties prescribed for the commissioner of conservation by Laws 1931, chapter 186, all the powers and duties therein prescribed for the Conservation Commission except the power to appoint a commissioner, and all other powers and duties now prescribed by law for the commissioner of conservation, the Conservation Commission, the Department of Conservation, its divisions, or the director of any division.

Subd. 4. **Certain powers and duties of state auditor.** The commissioner shall have all existing powers and duties now or heretofore vested in or imposed upon the state auditor in any capacity and not heretofore transferred to any other officer or agency with respect to the public lands, parks, timber, waters, and minerals of the state, and the records thereof; provided, that nothing herein shall divest the state auditor of any power or duty otherwise prescribed by law with respect to auditing, accounting, disbursement, or other disposition of funds pertaining to the matters herein specified, nor of any power or duty expressly vested in or imposed upon the state auditor by the following provisions of law:

(1) The provisions of Mason's Minnesota Statutes 1927, section 76, so far as the same pertain to the crediting of payments on account of state lands, timber, or other products to the proper funds, or to the depositing and keeping of conveyances and abstracts of title; also all other provisions pertaining to the filing or keeping of deeds, grants, or conveyances to the state or abstracts or other evidence of title to state property;

(2) All provisions pertaining to escheated property;

(3) Mason's Minnesota Statutes 1927, sections 2220, 6442 to 6449, 6646, 6660, and 8223.

Subd. 5. **Land descriptions.** The commissioner shall have all the powers and duties prescribed for the state auditor by Mason's Supplement 1940, sections 5620-1 to 5620-13, 6452-1 to 6452-13, and 4031-75 to 4031-88, with respect to the receipt, filing, keeping, and certification of reports, lists, and records of descriptions of lands, reserving to the state auditor all other powers and duties therein prescribed for the state auditor. The county auditor shall make and transmit to the state auditor all the certificates and reports therein required except certificates and reports of land descriptions, which shall be made and transmitted to the commissioner.

Subd. 6. **Land sales and conveyances.** The commissioner shall have all the powers and duties prescribed for the state auditor by Mason's Supplement 1940, sections 5620-13 1/2 to 5620-13 1/2j, as amended, and 2139-27b to 2139-27k, as amended, with respect to the receipt, filing, and keeping of reports of sales of land and the execution of conveyances, reserving to the state auditor all other powers and duties therein prescribed for the state auditor. The county auditors shall make and transmit to the commissioner all the certificates and reports therein required to be made to the state auditor with respect to such sales and conveyances. The county treasurers shall make all reports of collections thereunder in duplicate and shall transmit a copy of each report to the commissioner of management and budget and the commissioner.

Subd. 7. **Limitation of powers.** Except as otherwise expressly provided, nothing herein shall confer on the commissioner any authority over any property of the state devoted pursuant to law to any specific purpose under any officer or agency of the state other than the commissioner or the Department of Natural Resources or its divisions.

Subd. 8. **Selecting lands for certain purposes.** The commissioner of natural resources may select from any available lands owned by the United States in this state such lands as the commissioner deems suitable in lieu of any deficiencies which may have occurred in grants of school lands or other lands heretofore made to the state under any act of Congress, and may, with the approval of the Executive Council, accept on behalf of the state any grants or patents of lands so selected issued by the United States to the state.

This subdivision shall not be deemed to amend, supersede, or repeal any existing law, but shall be supplementary thereto.

Subd. 9. **Condemnation with landowner's consent.** If authorized by law to acquire any interest in real estate, the commissioner of natural resources may acquire by condemnation with the written consent of the landowner, that real estate which the commissioner deems to be in the best interests of the state. This subdivision shall apply only in those situations where condemnation is not otherwise authorized for the acquisition.

Subd. 10. **Sale of surplus lands to local governments for recreational or natural resources purposes.** (a) The commissioner, with the approval of the state Executive Council, may sell the class of land or interest in land under paragraph (b) to a county, home rule charter or statutory city, town, or other governmental subdivision of the state for public use, including recreational or natural resource purposes.

(b) The commissioner may sell the class of land or interest in land that has been acquired by gift, purchase, or eminent domain and the commissioner has declared surplus. The commissioner shall declare land surplus in writing and state the reasons why the land or interest in land is no longer needed.

(c) The commissioner shall appraise the land or interest in land before the land or interest in land is sold, and may sell the land or interest in land for less than the appraised value if the commissioner determines, in writing, that it is in the public interest.

(d) The commissioner shall convey the state's interest in the name of the state by quitclaim deed in a form approved by the attorney general. The deed must reserve to the state minerals and mineral rights in the manner provided in sections 93.01 and 93.02, and provide that the land or interest in land reverts to the state if the governmental subdivision acquiring the land or interest in land:

(1) fails to provide the public use intended on the property;

(2) allows a public use other than the public use agreed to by the commissioner at the time of conveyance without the written approval of the commissioner; or

(3) abandons the public use of the property.

Subd. 11. [Repealed, 1Sp2011 c 2 art 4 s 36]

Subd. 12. **Property disposal; gift acknowledgment; advertising sales.** (a) The commissioner may recognize the contribution of money or in-kind services on plaques, signs, publications, audiovisual materials, and media advertisements by allowing the organization's contribution to be acknowledged in print of readable size.

(b) The commissioner may accept paid advertising for departmental publications. Advertising revenues received are appropriated to the commissioner to be used to defray costs of publications, media productions, or other informational materials. The commissioner may not accept paid advertising from any elected official or candidate for elective office.

Subd. 13. **Game and fish rules.** (a) The commissioner of natural resources may adopt rules under sections 97A.0451 to 97A.0459 and this subdivision that are authorized under:

(1) chapters 97A, 97B, and 97C to set open seasons and areas, to close seasons and areas, to select hunters for areas, to provide for tagging and registration of game and fish, to prohibit or allow taking of wild animals to protect a species, to prevent or control wildlife disease, to open or close bodies of water or portions of bodies of water for night bow fishing, and to prohibit or allow importation, transportation, or possession of a wild animal;

(2) sections 84.093, 84.15, and 84.152 to set seasons for harvesting wild ginseng roots and wild rice and to restrict or prohibit harvesting in designated areas; and

(3) section 84D.12 to designate prohibited invasive species, regulated invasive species, and unregulated nonnative species and to list infested waters.

(b) If conditions exist that do not allow the commissioner to comply with sections 97A.0451 to 97A.0459, including the need to adjust season variables on an annual basis based upon current biological and harvest data, the commissioner may adopt a rule under this subdivision by submitting the rule to the attorney general for review under section 97A.0455, publishing a notice in the State Register and filing the rule with the secretary of state and the Legislative Coordinating Commission, and complying with section 97A.0459, and including a statement of the conditions and a copy of the rule in the notice. The conditions for opening a water body or portion of a water body for night bow fishing under this section may include the need to temporarily open the area to evaluate compatibility of the activity on that body of water prior to permanent rulemaking. The notice may be published after it is received from the attorney general or five business days after it is submitted to the attorney general, whichever is earlier.

(c) Rules adopted under paragraph (b) are effective upon publishing in the State Register and may be effective up to seven days before publishing and filing under paragraph (b), if:

(1) the commissioner of natural resources determines that an emergency exists;

(2) the attorney general approves the rule; and

(3) for a rule that affects more than three counties the commissioner publishes the rule once in a legal newspaper published in Minneapolis, St. Paul, and Duluth, or for a rule that affects three or fewer counties the commissioner publishes the rule once in a legal newspaper in each of the affected counties.

(d) Except as provided in paragraph (e), a rule published under paragraph (c), clause (3), may not be effective earlier than seven days after publication.

(e) A rule published under paragraph (c), clause (3), may be effective the day the rule is published if the commissioner gives notice and holds a public hearing on the rule within 15 days before publication.

(f) The commissioner shall attempt to notify persons or groups of persons affected by rules adopted under paragraphs (b) and (c) by public announcements, posting, and other appropriate means as determined by the commissioner.

(g) Notwithstanding section 97A.0458, a rule adopted under this subdivision is effective for the period stated in the notice but not longer than 18 months after the rule is effective.

Subd. 13a. **Game and fish expedited permanent rules.** (a) In addition to the authority granted in subdivision 13, the commissioner of natural resources may adopt rules under section 14.389 that are authorized under:

(1) chapters 97A, 97B, and 97C to describe zone or permit area boundaries, to designate fish spawning beds or fish preserves, to select hunters or anglers for areas, to provide for registration of game or fish, to prevent or control wildlife disease, or to correct errors or omissions in rules that do not have a substantive effect on the intent or application of the original rule; or

(2) section 84D.12 to designate prohibited invasive species, regulated invasive species, and unregulated nonnative species.

(b) The commissioner of natural resources may adopt rules under section 14.389 that are authorized under chapters 97A, 97B, and 97C, for purposes in addition to those listed in paragraph (a), clause (1), subject to the notice and public hearing provisions of section 14.389, subdivision 5.

Subd. 14. **Mission; efficiency.** It is part of the department's mission that within the department's resources the commissioner shall endeavor to:

(1) prevent the waste or unnecessary spending of public money;

(2) use innovative fiscal and human resource practices to manage the state's resources and operate the department as efficiently as possible;

(3) coordinate the department's activities wherever appropriate with the activities of other governmental agencies;

(4) use technology where appropriate to increase agency productivity, improve customer service, increase public access to information about government, and increase public participation in the business of government;

(5) utilize constructive and cooperative labor-management practices to the extent otherwise required by chapters 43A and 179A;

(6) report to the legislature on the performance of agency operations and the accomplishment of agency goals in the agency's biennial budget according to section 16A.10, subdivision 1;

(7) recommend to the legislature appropriate changes in law necessary to carry out the mission and improve the performance of the department; and

(8) plan and implement activities designed to recruit new outdoor recreation participants, including youth, women, and minorities, and retain existing participants. This includes but is not limited to anglers, hunters, trappers, and campers.

Subd. 14a. **Permitting efficiency; public notice.** (a) It is the goal of the state that environmental and resource management permits be issued or denied within 90 days for tier 1 permits or 150 days for tier 2 permits following submission of a permit application. The commissioner of natural resources shall establish management systems designed to achieve the goal.

(b) The commissioner shall prepare an annual permitting efficiency report that includes statistics on meeting the goal in paragraph (a) and the criteria for tier 2 by permit categories. The report is due August 1 each year. For permit applications that have not met the goal, the report must state the reasons for not meeting the goal. In stating the reasons for not meeting the goal, the commissioner shall separately identify delays caused by the responsiveness of the proposer, lack of staff, scientific or technical disagreements, or the level of public engagement. The report must specify the number of days from initial submission of the application to the day of determination that the application is complete. The report must aggregate the data for the year and assess whether program or system changes are necessary to achieve the goal. The report must be posted on the department's website and submitted to the governor and the chairs and ranking minority members of the house of representatives and senate committees having jurisdiction over natural resources policy and finance.

(c) The commissioner shall allow electronic submission of environmental review and permit documents to the department.

(d) Within 30 business days of application for a permit subject to paragraph (a), the commissioner of natural resources shall notify the permit applicant, in writing, whether the application is complete or incomplete. If the commissioner determines that an application is incomplete, the notice to the applicant must enumerate all deficiencies, citing specific provisions of the applicable rules and statutes, and advise the applicant on how the deficiencies can be remedied. If the commissioner determines that the application is complete, the notice must confirm the application's tier 1 or tier 2 permit status. If the commissioner believes that a complete application for a tier 2 construction permit cannot be issued within the 150-day goal, the commissioner must provide notice to the applicant with the commissioner's notice that the application is complete and, upon request of the applicant, provide the permit applicant with a schedule estimating when the agency will begin drafting the permit and issue the public notice of the draft permit. This paragraph does not apply to an application for a permit that is subject to a grant or loan agreement under chapter 446A.

(e) When public notice of a draft individual tier 2 permit is required, the commissioner must provide the applicant a draft permit for review by the applicant within 30 days after determining the proposal conforms to all federal and state laws and rules, unless the permit applicant and the commissioner mutually agree to a different date. The commissioner must consider all comments submitted by the applicant before issuing the permit.

Subd. 14b. **Expediting costs; reimbursement.** Permit applicants needing any permit from the commissioner of natural resources to construct, reconstruct, or modify a project or to operate a facility may offer to reimburse the department for the costs of staff time or consultant services needed to expedite the preapplication process and permit development process through the final decision on the permit, including the analysis of environmental review documents. The reimbursement shall be in addition to permit application fees imposed by law. When the commissioner determines that additional resources are needed to develop the permit application in an expedited manner, and that expediting the development is consistent with permitting program priorities, the commissioner may accept the reimbursement. The commissioner must give the permit applicant an estimate of costs for the expedited service to be incurred by the commissioner. The estimate must include a brief description of the tasks to be performed, a schedule for completing the tasks, and the estimated cost for each task. The proposer and the commissioner shall enter into a written agreement detailing the estimated costs for the expedited service to be incurred by the department. The agreement must also identify staff anticipated to be assigned to the project. The commissioner must not issue a permit until the applicant has paid all fees in full. The commissioner must refund any unobligated balance of fees paid. Reimbursements accepted by the commissioner are appropriated to the commissioner for the purpose of developing the permit or analyzing environmental review documents. Reimbursement by a permit

applicant shall precede and not be contingent upon issuance of a permit; shall not affect the commissioner's decision on whether to issue or deny a permit, what conditions are included in a permit, or the application of state and federal statutes and rules governing permit determinations; and shall not affect final decisions regarding environmental review.

Subd. 15. **Electronic transactions.** (a) The commissioner may receive an application for, sell, and issue any license, stamp, permit, pass, sticker, gift card, safety training certification, registration, or transfer under the jurisdiction of the commissioner by electronic means, including by telephone. Notwithstanding section 97A.472, electronic and telephone transactions may be made outside of the state. The commissioner may:

(1) provide for the electronic transfer of funds generated by electronic transactions, including by telephone;

(2) assign an identification number to an applicant who purchases a hunting or fishing license or recreational vehicle registration by electronic means, to serve as temporary authorization to engage in the activity requiring a license or registration until the license or registration is received or expires;

(3) charge and permit agents to charge a fee of individuals who make electronic transactions and transactions by telephone or Internet, including issuing fees and an additional transaction fee not to exceed \$3.50;

(4) charge and permit agents to charge a convenience fee not to exceed three percent of the cost of the license to individuals who use electronic bank cards for payment. An electronic licensing system agent charging a fee of individuals making an electronic bank card transaction in person must post a sign informing individuals of the fee. The sign must be near the point of payment, clearly visible, include the amount of the fee, and state: "License agents are allowed by state law to charge a fee not to exceed three percent of the cost of state licenses to persons who use electronic bank cards for payment. The fee is not required by state law.";

(5) establish, by written order, an electronic licensing system commission to be paid by revenues generated from all sales made through the electronic licensing system. The commissioner shall establish the commission in a manner that neither significantly overrecovers nor underrecovers costs involved in providing the electronic licensing system; and

(6) adopt rules to administer the provisions of this subdivision.

(b) The fees established under paragraph (a), clauses (3) and (4), and the commission established under paragraph (a), clause (5), are not subject to the rulemaking procedures of chapter 14 and section 14.386 does not apply.

(c) Money received from fees and commissions collected under this subdivision, including interest earned, is annually appropriated from the game and fish fund and the natural resources fund to the commissioner for the cost of electronic licensing.

(d) Game and fish licenses under chapters 97A, 97B, and 97C shall be available by electronic transaction, regardless of whether all or any part of the biennial appropriation law for the department has been enacted. If, by July 1 of an odd-numbered year, legislation has not been enacted to appropriate money to the commissioner of management and budget for central accounting, procurement, payroll, and human resources functions, amounts necessary to operate those functions for the purpose of this paragraph are appropriated from the general fund to the commissioner of management and budget. As necessary, the commissioner may transfer a portion of this appropriation to other state agencies to support carrying out these functions. Any subsequent appropriation to the commissioner of management and budget for a biennium in which this section is applicable supersedes and replaces the funding authorized in this paragraph.

Subd. 16. **Commissioner to administer grants programs.** Unless otherwise specified by law, the commissioner may establish the procedures and criteria for selection of projects funded through authorized grants and research programs. Procedures and criteria for selection are not subject to the rulemaking provisions of chapter 14 and section 14.386 does not apply.

Subd. 17. **Background checks for volunteer instructors.** (a) The commissioner may conduct background checks for volunteer instructor applicants for department safety training and education programs, including the programs established under sections 84.791 (youth off-highway motorcycle safety education and training), 84.86 and 84.862 (youth and adult snowmobile safety training), 84.925 (youth all-terrain vehicle safety education and training), 97B.015 (youth firearms safety training), and 97B.025 (hunter and trapper education and training).

(b) The commissioner shall perform the background check by retrieving criminal history data as defined in section 13.87 maintained by the Bureau of Criminal Apprehension in the Department of Public Safety and other data sources.

(c) The commissioner shall develop a standardized form to be used for requesting a background check, which must include:

(1) a notification to the applicant that the commissioner will conduct a background check under this section;

(2) a notification to the applicant of the applicant's rights under paragraph (d); and

(3) a signed consent by the applicant to conduct the background check expiring one year from the date of signature.

(d) The volunteer instructor applicant who is the subject of a background check has the right to:

(1) be informed that the commissioner will request a background check on the applicant;

(2) be informed by the commissioner of the results of the background check and obtain a copy of the background check;

(3) obtain any record that forms the basis for the background check and report;

(4) challenge the accuracy and completeness of the information contained in the report or a record; and

(5) be informed by the commissioner if the applicant is rejected because of the result of the background check.

Subd. 18. **Permanent school fund authority; reporting.** (a) The commissioner of natural resources has the authority and responsibility for the administration of school trust lands under sections 92.121 and 127A.31. The commissioner shall biannually report to the Legislative Permanent School Fund Commission and the legislature on the management of the school trust lands that shows how the commissioner has and will continue to achieve the following goals:

(1) manage the school trust lands efficiently and in a manner that reflects the undivided loyalty to the beneficiaries consistent with the commissioner's fiduciary duties;

(2) reduce the management expenditures of school trust lands and maximize the revenues deposited in the permanent school trust fund;

(3) manage the sale, exchange, and commercial leasing of school trust lands, requiring returns of not less than fair market value, to maximize the revenues deposited in the permanent school trust fund and retain the value from the long-term appreciation of the school trust lands;

(4) manage the school trust lands to maximize the long-term economic return for the permanent school trust fund while maintaining sound natural resource conservation and management principles;

(5) optimize school trust land revenues and maximize the value of the trust consistent with the balancing of short-term and long-term interests, so that long-term benefits are not lost in an effort to maximize short-term gains; and

(6) maintain the integrity of the trust and prevent the misapplication of its lands and its revenues.

(b) When the commissioner finds an irresolvable conflict between maximizing the long-term economic return and protecting natural resources and recreational values on school trust lands, the commissioner shall give precedence to the long-term economic return in managing school trust lands. By July 1, 2018, the permanent school fund shall be compensated for all school trust lands included under a designation or policy provision that prohibits long-term economic return. The commissioner shall submit recommendations to the appropriate legislative committees and divisions on methods of funding for the compensation required under this paragraph, including recommendations for appropriations from the general fund, nongeneral funds, and the state bond fund. Any uncompensated designation or policy provision restrictions on the long-term economic return on school trust lands remaining after July 1, 2018, shall be compiled and submitted to the Legislative Permanent School Fund Commission for review.

(c) By December 31, 2013, the report required under paragraph (a) shall provide an inventory and identification of all school trust lands that are included under a designation or policy provision that prohibits long-term economic return. The report shall include a plan to compensate the permanent school fund through the purchase or exchange of the lands or a plan to manage the school trust land to generate long-term economic return to the permanent school fund. Subsequent reports under paragraph (a) shall include a status report of the commissioner's progress in maximizing the long-term economic return on lands identified in the 2013 report.

(d) When future designations or policies by the commissioner prohibit the long-term economic return on school trust land, the conflict shall be resolved by compensating the permanent school fund through an exchange or purchase of the lands before designation or application of the policy.

Subd. 19. **Federal law compliance.** Notwithstanding any law to the contrary, the commissioner may establish, by written order, policies for the use and operation of other power-driven mobility devices, as defined under Code of Federal Regulations, title 28, section 35.104, on lands and in facilities administered by the commissioner for the purposes of implementing the Americans with Disabilities Act, United States Code, title 42, section 12101 et seq. These policies are exempt from the rulemaking provisions of chapter 14 and section 14.386 does not apply.

Subd. 20. **Hunting licenses to critically ill persons.** The commissioner may allow critically ill persons to purchase, once in a lifetime, hunting licenses otherwise limited by a lottery drawing, which licenses allow for taking game within established hunting seasons or season frameworks. The commissioner may provide the licenses to persons who are participating in a program for critically ill hunters sponsored by a nonprofit organization with expertise in providing hunting opportunities to hunters who are gravely ill or have physical disabilities. The commissioner may provide licenses or permits otherwise limited by drawings, including wild turkey, deer, bear, prairie chicken, and wolf. The commissioner may not allow the purchase of moose

and elk licenses under this subdivision. Deer licenses authorized by the commissioner under this subdivision may be for deer of either sex.

History: 1943 c 60 s 2; 1953 c 382 s 1; 1969 c 1129 art 10 s 2; 1976 c 96 s 1; 1986 c 444; 1988 c 628 s 1; 1993 c 172 s 32; 1994 c 509 s 1; 1995 c 233 art 2 s 39; 1995 c 248 art 11 s 6; 1996 c 385 art 2 s 1; 1997 c 7 art 1 s 20; 1997 c 216 s 58; 1998 c 366 s 53; 1999 c 92 s 1; 1999 c 231 s 83; 2003 c 128 art 1 s 12; 2004 c 221 s 2; 2004 c 243 s 3; 2004 c 255 s 3; 2005 c 146 s 2,3; 1Sp2005 c 1 art 2 s 13,14; 2007 c 57 art 1 s 20; 2008 c 357 s 2; 2008 c 368 art 2 s 4; 2009 c 59 art 6 s 2; 2009 c 101 art 2 s 109; 2009 c 176 art 1 s 1; 2010 c 361 art 4 s 2; 2011 c 4 s 1; 2012 c 150 art 1 s 1; 2012 c 249 s 4,12; 2012 c 277 art 1 s 1,2; 2013 c 114 art 4 s 2; 2013 c 121 s 1-3; 2014 c 237 s 2,3; 2014 c 289 s 2-5; 1Sp2015 c 4 art 5 s 1; 2016 c 189 art 3 s 8,9; 2017 c 93 art 2 s 2,3