

**116B.10 CIVIL ACTION AGAINST STATE.**

**Subdivision 1. Civil actions.** As hereinafter provided in this section, any natural person residing within the state; the attorney general; any political subdivision of the state; any instrumentality or agency of the state or of a political subdivision thereof; or any partnership, corporation, association, organization, or other legal entity having shareholders, members, partners or employees residing within the state may maintain a civil action in the district court for declaratory or equitable relief against the state or any agency or instrumentality thereof where the nature of the action is a challenge to an environmental quality standard, limitation, rule, order, license, stipulation agreement, or permit promulgated or issued by the state or any agency or instrumentality thereof for which the applicable statutory appeal period has elapsed.

**Subd. 2. Burden of proof.** In any action maintained under this section the plaintiff shall have the burden of proving that the environmental quality standard, limitation, rule, order, license, stipulation agreement, or permit is inadequate to protect the air, water, land, or other natural resources located within the state from pollution, impairment, or destruction. The plaintiff shall have the burden of proving the existence of material evidence showing said inadequacy of said environmental quality standard, limitation, rule, order, license, stipulation agreement, or permit.

**Subd. 3. Remittitur; judicial review.** In any action maintained under this section the district court, upon a *prima facie* showing by the plaintiff of those matters specified in subdivision 2, shall remit the parties to the state agency or instrumentality that promulgated the environmental quality standard, limitation, rule, order, license, stipulation agreement, or permit which is the subject of the action, requiring said agency or instrumentality to institute the appropriate administrative proceedings to consider and make findings and an order on those matters specified in subdivision 2. In so remitting the parties, the court may grant temporary equitable relief where appropriate to prevent irreparable injury to the air, water, land, or other natural resources located within the state. In so remitting the parties, the court shall retain jurisdiction for purposes of judicial review to determine whether the order of the agency is supported by the preponderance of the evidence. If plaintiff fails to establish said *prima facie* showing, the court shall dismiss the action and award such costs and disbursements as the court deems appropriate.

**Subd. 4. Intervention.** In any action maintained under this section, any natural person residing within the state; the attorney general; any political subdivision of the state; any instrumentality or agency of the state or of a political subdivision thereof; or any partnership, corporation, association, organization or other legal entity having shareholders, members, partners, or employees residing within the state shall be permitted to intervene as a party, provided that said person makes timely application to the district court prior to the court's remittance of the action as specified in subdivision 3.

**Subd. 5. Venue.** Any action maintained under this section shall be brought in the county in which is located the principal office of the state agency or instrumentality that promulgated the rule, standard, order or permit which is the subject of the action.

**History:** 1971 c 952 s 10; 1985 c 248 s 70