103F.601 WATER BANK PROGRAM.

Subdivision 1. **Establishment.** (a) The commissioner of natural resources shall establish a water bank program of acquiring interests in land to preserve wetlands, whether or not the wetlands are included in the definition contained in section 103G.005, subdivision 15a.

(b) The commissioner may:

(1) acquire title to wetlands under section 97A.145; or

(2) enter into easement agreements with property owners to preserve wetlands and other waters.

Subd. 2. **Easement requirements.** (a) The easement agreements must be conservation easements, as defined in section 84C.01, clause (1). The conservation easements may be possessory or nonpossessory if agreed upon by the property owner and the commissioner.

(b) The conservation easements must be:

(1) for a period of at least 20 years, with provision for renewal for at least 20-year periods; or

(2) permanent in duration.

(c) Highest priority must be given to property owners desiring to enter agreements for permanent easements.

(d) The commissioner may reexamine the payment rates at the beginning of a 20-year renewal period and adjust them after giving consideration to current land and crop values.

Subd. 3. **Property owner agreement.** In the easement agreement between the commissioner and a property owner, the property owner must agree:

(1) to designate eligible wetland areas for placement into the water bank program, which may include wetlands covered by a federal or state government easement that allows agricultural use, together with adjacent areas as determined desirable by the commissioner;

(2) to place designated eligible wetland areas in the program for the period of the agreement;

(3) not to drain, burn, fill, or otherwise destroy the wetland character of the areas, or to use them for agricultural purposes, as determined by the commissioner;

(4) to implement the wetland conservation and development plan for the property in accordance with the agreement, unless a requirement of the agreement or plan is waived or changed by the commissioner;

(5) that upon violating the agreement during the time the property owner has control of the property covered by the agreement:

(i) to forfeit rights to further payments or grants under the agreement and to refund to the state payments or grants received under the agreement if the commissioner determines that the violation warrants termination of the agreement; or

(ii) to make refunds or accept payment adjustments the commissioner finds appropriate if the commissioner determines that the violation by the owner does not warrant termination of the agreement;

(6) not to adopt a practice specified by the commissioner in an easement as a practice that would tend to defeat the purposes of the easement; and

(7) to additional provisions that the commissioner determines are desirable and includes in the easement to implement the purposes of the program or to facilitate its administration.

Subd. 4. **Conservation and development advice.** The commissioner must provide advice about conservation and development practices on the wetlands and adjacent areas to implement this section.

Subd. 5. **Easement payments.** The commissioner must make payments under this subdivision to the property owner for the water bank easement:

(1) for a permanent easement, 50 percent of the average equalized estimated market value of cropland in the township as established by the commissioner of revenue for the time period when the application is made;

(2) for an easement of limited duration, a lump-sum payment equal to 65 percent of the value of the permanent easement value for the time period when the application is made; or

(3) an alternative payment system for easements based on cash rent or a similar system as may be determined by the commissioner.

Subd. 6. **Converting to permanent easement.** A limited-term easement may be converted to a permanent easement or renewed at the end of the easement period for an additional 20 years by mutual agreement of the commissioner and the property owner, subject to a rate redetermination by the commissioner.

Subd. 7. **Change of ownership.** If the property owner sells or otherwise disposes of the ownership or right of occupancy of the property during the easement period, the new property owner must continue the easement under the same terms or conditions.

Subd. 8. **Terminating or changing agreement.** The commissioner may terminate an easement by mutual agreement with the property owner if the commissioner determines that the termination would be in the public interest, and may agree to a modification of terms of the agreement that the commissioner determines desirable to implement the water bank program or facilitate its administration.

Subd. 9. **Rules.** The commissioner may adopt rules that include the procedures and payment rates to implement this section.

History: *1990 c 391 art 6 s 79; 1996 c 462 s 43; 2017 c 40 art 1 s 11*