CHAPTER 103F

PROTECTION OF WATER RESOURCES

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GENERAL PROVISIONS

103F.001 CITATION; WATER LAW.

This chapter and chapters 103A, 103B, 103C, 103D, 103E, and 103G constitute the water law of this state and may be cited as the "Water Law."

History: *1990 c 391 art 6 s 1*

103F.05 WATER QUALITY AND STORAGE PROGRAM.

Subdivision 1. **Definitions.** (a) For purposes of this section, the terms in this subdivision have the meanings given them.

(b) "Board" means the Board of Water and Soil Resources.

(c) "Local units of government" has the meaning given under section 103B.305, subdivision 5.

(d) "Water quality and storage practices" means those practices that sustain or improve water quality via surface water rate and volume and ecological management, including but not limited to:

(1) retention structures and basins;

(2) acquisition of flowage rights;

(3) soil and substrate infiltration;

(4) wetland restoration, creation, or enhancement;

(5) channel restoration or enhancement; and

(6) floodplain restoration or enhancement.

Subd. 2. **Establishment.** (a) The board must establish a program to provide financial assistance to local units of government to control water volume and rates to protect infrastructure, improve water quality and related public benefits, and mitigate climate change impacts.

(b) In establishing a water quality and storage program, the board must give priority to the Minnesota River basin and the lower Mississippi River basin in Minnesota.

Subd. 3. **Financial assistance.** (a) The board may provide financial assistance to local units of government to cover the costs of water storage projects and other water quality and storage practices consistent with a plan approved according to chapter 103B, 103C, or 103D. Eligible costs include costs for property and equipment acquisition, design, engineering, construction, and management. The board may acquire conservation easements under sections 103F.501 to 103F.531 as necessary to implement a project or practice under this section.

(b) The board must enter into agreements with local units of government receiving financial assistance under this section. The agreements must specify the terms of state and local cooperation, including the financing arrangement for constructing any structures and assuring maintenance of the structures after completion.

Subd. 4. **Matching contribution.** The board must require a matching contribution when providing financial assistance under this section and may adjust matching requirements if federal funds are available for the project.

Subd. 5. **Technical assistance.** (a) The board may employ or contract with an engineer or hydrologist to work on the technical implementation of the program established under this section.

(b) When implementing the program, the board must:

(1) assist local units of government in achieving the goals of the program;

(2) review and analyze projects and project sites; and

(3) evaluate the effectiveness of completed projects constructed under the program.

(c) The board must cooperate with the commissioner of natural resources, the United States Department of Agriculture Natural Resources Conservation Service, and other agencies as needed to analyze hydrological, climate, and engineering information on proposed sites.

Subd. 6. **Requirements.** (a) A local unit of government applying for financial assistance under this section must provide a copy of a resolution or other documentation of the local unit of government's support for the project. The documentation must include provisions for local funding and management, the proposed method of obtaining necessary land rights for the proposed project, and an assignment of responsibility for maintaining any structures or practices upon completion.

(b) A local unit of government, with the assistance of the board, must evaluate the public benefits that are reasonably expected upon completing the proposed project. The evaluation must be submitted to the board before the final design.

Subd. 7. **Interstate cooperation.** The board may enter into or approve working agreements with neighboring states or their political subdivisions to accomplish projects consistent with the program established under this section.

Subd. 8. **Federal aid availability.** The board must regularly analyze the availability of federal funds and programs to supplement or complement state and local efforts consistent with the purposes of this section.

History: *1Sp2021 c 6 art 2 s 80*

103F.06 SOIL HEALTH PRACTICES PROGRAM.

Subdivision 1. **Definitions.** (a) In this section, the following terms have the meanings given:

(1) "board" means the Board of Water and Soil Resources;

(2) "local units of government" has the meaning given under section 103B.305, subdivision 5; and

(3) "soil health" has the meaning given under section 103C.101, subdivision 10a.

Subd. 2. **Establishment.** (a) The board must administer a financial and technical support program to produce soil health practices that achieve water quality, soil productivity, climate change resiliency, or carbon sequestration benefits or reduce pesticide and fertilizer use.

(b) The program must include but is not limited to no till, field borders, prairie strips, cover crops, and other practices sanctioned by the board or the United States Department of Agriculture's Natural Resources Conservation Service.

Subd. 3. **Financial and technical assistance.** (a) The board may provide financial and technical support to local units of government, private sector organizations, and farmers to establish soil health practices and related practices with climate and water-quality benefits.

(b) The board must establish practices and costs that are eligible for financial and technical support under this section.

Subd. 4. **Program implementation.** (a) The board may employ staff or enter into external agreements to implement this section.

(b) The board must assist local units of government in achieving the objectives of the program, including assessing practice standards and program effectiveness.

Subd. 5. **Federal aid availability.** The board must regularly review and optimize the availability of federal funds and programs to supplement or complement state and other efforts consistent with the purposes of this section.

Subd. 6. **Soil health practices.** The board, in consultation with the commissioner of agriculture, may cooperate with the United States Department of Agriculture, other federal and state agencies, local governments, and private sector organizations to establish soil health goals for the state that will achieve water quality, soil productivity, climate change resiliency, and carbon sequestration benefits and reduce pesticide and fertilizer use.

History: *2023 c 60 art 5 s 15*

FLOODPLAIN MANAGEMENT

103F.101 CITATION.

Sections 103F.101 to 103F.151 may be cited as the "Floodplain Management Law."

History: *1990 c 391 art 6 s 2; 2014 c 248 s 18*

103F.105 FLOODPLAIN MANAGEMENT POLICY.

(a) The legislature finds:

(1) a large portion of the state's land resources is subject to recurrent flooding by overflow of streams and other watercourses causing loss of life and property, disruption of commerce and governmental services, unsanitary conditions, and interruption of transportation and communications, all of which are detrimental to the health, safety, welfare, and property of the occupants of flooded lands and the people of this state; and

(2) the public interest necessitates sound land use development as land is a limited and irreplaceable resource, and the floodplains of this state are a land resource to be developed in a manner which will result in minimum loss of life and threat to health, and reduction of private and public economic loss caused by flooding.

(b) It is the policy of this state to reduce flood damages through floodplain management, stressing nonstructural measures such as floodplain zoning and floodproofing, flood warning practices, and other indemnification programs that reduce public liability and expense for flood damages.

(c) It is the policy of this state:

(1) not to prohibit but to guide development of the floodplains consistent with legislative findings;

(2) to provide state coordination and assistance to local governmental units in floodplain management;

(3) to encourage local governmental units to adopt, enforce and administer sound floodplain management ordinances;

(4) to provide the commissioner of natural resources with authority necessary to carry out a floodplain management program for the state and to coordinate federal, state, and local floodplain management activities in this state; and

(5) to provide incentives for communities to participate in the national flood insurance program and for citizens of Minnesota to take actions such as purchasing and maintaining flood insurance to reduce future flood damage to private property.

History: *1990 c 391 art 6 s 3; 2Sp1997 c 2 s 17*

103F.111 DEFINITIONS.

Subdivision 1. **Applicability.** The definitions in this section apply to sections 103F.111 to 103F.165.

Subd. 2. **Commissioner.** "Commissioner" means the commissioner of natural resources.

Subd. 3. **Flood fringe.** "Flood fringe" means the portion of the floodplain outside of the floodway.

Subd. 4. **Floodplain.** "Floodplain" means the areas adjoining a watercourse or water basin that have been or may be covered by a regional flood.

Subd. 5. **Floodway.** "Floodway" means the channel of the watercourse, the bed of water basins, and those portions of the adjoining floodplains that are reasonably required to carry and discharge floodwater and provide water storage during a regional flood.

Subd. 6. **Local governmental unit.** "Local governmental unit" means a county, statutory or home rule charter city, town, watershed district, or lake improvement district.

Subd. 7. **Mitigation.** "Mitigation" means the act of alleviating the effects of floods and flooding by moderating or reducing the severe damages resulting from floods through structural and nonstructural flood management measures.

Subd. 8. **Mitigation measures.** "Mitigation measures" means structural or nonstructural flood management measures, or both.

Subd. 9. **Nonstructural flood management measures.** "Nonstructural flood management measures" means actions in floodplains designed to reduce the damaging effects of floods on existing and potential users of floodplains, without physically altering the flood behavior. Nonstructural flood management measures include:

(1) public acquisition of floodplain lands;

(2) relocation of public and private structures and facilities;

(3) floodproofing of public and private facilities;

(4) installation and operation of flood warning systems and evacuation procedures;

(5) adoption and enforcement of land use control ordinances and building codes;

(6) installation of signs and other notifications in regional flood areas; and

(7) provision of flood insurance and public education.

Subd. 10. **Regional flood.** "Regional flood" means a flood that is representative of large floods known to have occurred generally in the state and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of a 100-year recurrence interval.

Subd. 11. **Structural flood management measures.** "Structural flood management measures" means physical actions taken to modify the behavior and extent of floods and flooding, including the construction of dams, dikes, levees, flood bypass channels, floodwater storage and retardation structures, and water level control structures, excluding deepening or straightening of existing stream channels.

Subd. 12. **Water basin.** "Water basin" has the meaning given it by section 103G.005, subdivision 16.

History: *1990 c 391 art 6 s 4*

103F.115 PRIORITY FOR REDUCING FLOOD DAMAGE.

Floodplain management ordinances are to be given primary consideration in the reduction of flood damage in the state and alternative methods for reducing flood damage may not be carried out before adoption

of floodplain management ordinances by local governmental units. Structural projects which have the purpose of controlling floods are to be considered only as elements of a floodplain management program.

History: *1990 c 391 art 6 s 5*

103F.121 FLOODPLAIN MANAGEMENT ORDINANCES.

Subdivision 1. **Adoption.** (a) In accordance with sections 103F.101 to 103F.151, the rules of the commissioner and applicable laws authorizing local governmental units to adopt floodplain management ordinances, local governmental units shall adopt, administer, and enforce floodplain management ordinances, which must include:

(1) the delineation of floodplains and floodways;

(2) the preservation of the capacity of the floodplain to carry and discharge regional floods;

(3) the minimization of flood hazards; and

(4) the regulation of the use of land in the floodplain.

(b) The ordinances shall be based on adequate technical data and competent engineering advice and shall be consistent with local and regional comprehensive planning.

Subd. 2. **Adoption procedure.** (a) The commissioner, upon determining that sufficient technical information is available for the delineation of floodplains and floodways on a watercourse, may notify affected local governmental units that technical information is available. The local governmental units shall prepare or amend their floodplain management ordinances in conformance with the provisions of sections 103F.101 to 103F.151 and shall submit the ordinance to the commissioner for review and approval before adoption.

(b) The commissioner shall approve or disapprove the proposed ordinance within 120 days after receiving it.

(c) If the proposed ordinance is disapproved, the commissioner shall return it to the local governmental unit with a written statement of reasons for disapproval. Within 90 days after disapproval, the local governmental unit shall resubmit an amended proposed ordinance for further review and approval before adoption. The local governmental unit shall adopt a floodplain management ordinance within 90 days after approval by the commissioner.

(d) A floodplain management ordinance adopted by a local governmental unit is invalid unless it is approved by the commissioner.

(e) A local governmental unit may adopt a floodplain management ordinance in the absence of notification by the commissioner that the required technical data is available, provided that any such ordinance is submitted to the commissioner prior to its adoption for approval.

(f) A local governmental unit may adopt a floodplain management ordinance that is more restrictive than required under sections 103F.101 to 103F.151.

(g) Floodplain management ordinances may be amended by a local governmental unit upon the approval of the commissioner.

Subd. 3. MS 2012 [Repealed, 2014 c 289 s 70]

Subd. 4. MS 2012 [Repealed, 2014 c 289 s 70]

Subd. 5. **Alterations and hazardous uses prohibited.** (a) If a floodplain has been delineated by a floodplain management ordinance under sections 103F.101 to 103F.151, alteration to a structure in existence on the effective date of the ordinance or a new fill, structure, deposit, or other floodplain use that is not in accordance with the local governmental unit's adopted floodplain management ordinance may not be permitted after the effective date of the ordinance delineating the floodplain.

(b) This subdivision does not apply to alterations, repair, or maintenance reasonably done under emergency circumstances to preserve or protect life.

(c) This subdivision applies to alterations to existing structures and to new fill, structures, deposits, or other floodplain uses by the state and state agencies.

History: *1990 c 391 art 6 s 6; 1991 c 199 art 2 s 1; 2014 c 248 s 18; 2014 c 289 s 51,52*

103F.125 CONSIDERING INDUSTRIAL USES IN FLOODPLAIN.

The commissioner in promulgating guidelines under section 103F.141 and local governmental units in preparing floodplain management ordinances shall give due consideration to the needs of an industry whose business requires that it be located within a floodplain.

History: *1990 c 391 art 6 s 7*

103F.131 MS 2012 [Repealed, 2014 c 248 s 19]

103F.135 COMMISSIONER'S ASSISTANCE AND INSPECTIONS.

Subdivision 1. **Commissioner's duties.** The commissioner shall:

(1) collect and distribute information relating to flooding and floodplain management;

(2) coordinate local, state, and federal floodplain management activities to the greatest extent possible, and encourage the United States Army Corps of Engineers and the United States Department of Agriculture to make their flood control planning data available to local governmental units for planning purposes, to allow adequate local participation in the planning process and in the selection of desirable alternatives;

(3) assist local governmental units in their floodplain management activities; and

(4) do all other things, within lawful authority, that are necessary or desirable to manage the floodplain for beneficial uses compatible with the preservation of the capacity of the floodplain to carry and discharge the regional flood.

Subd. 2. **Inspections.** In cooperation with local governmental units, the commissioner shall conduct, whenever possible, periodic inspections to determine the effectiveness of local floodplain management programs, including an evaluation of the enforcement of and compliance with local floodplain management ordinances.

History: *1990 c 391 art 6 s 9; 1993 c 163 art 1 s 11; 2014 c 248 s 10*

103F.141 RULES.

Subdivision 1. **Authority and criteria.** The commissioner shall adopt rules to implement sections 103F.101 to 103F.151, including:

(1) criteria for determining the floodplain uses that may be permitted without creating an unreasonable public hazard or unduly restricting the capacity of the floodplain to carry and discharge a regional flood;

(2) variance procedures; and

(3) the establishment of criteria for alternative or supplemental floodplain management measures such as floodproofing, subdivision rules, building codes, sanitation rules, and flood warning systems.

Subd. 2. MS 1996 [Repealed, 2Sp1997 c 2 s 32]

History: *1990 c 391 art 6 s 10; 2014 c 248 s 18*

103F.145 ENFORCEMENT AND PENALTIES.

Subdivision 1. **Uses in violation of ordinance; public nuisances.** Every structure, fill, deposit, or other floodplain use placed or maintained in the floodplain in violation of a floodplain management ordinance adopted under the provisions of sections 103F.105 to 103F.151 is a public nuisance.

Subd. 2. **Civil remedies.** The creation of a public nuisance under this section may be enjoined and the maintenance of a public nuisance under this section may be abated by an action brought by the commissioner or a local governmental unit.

Subd. 3. **Criminal penalties.** A person who violates a provision of sections 103F.105 to 103F.151 is guilty of a misdemeanor. Each day that the violation exists is a separate offense.

History: *1990 c 391 art 6 s 11; 2014 c 248 s 18*

103F.151 FLOOD-PRONE AREA INVENTORY AND ASSESSMENT.

The commissioner shall conduct a statewide inventory and flood damage assessment of flood-prone structures and lands.

History: *1990 c 391 art 6 s 12*

103F.155 MS 2012 [Repealed, 2014 c 248 s 19]

103F.161 FLOOD HAZARD MITIGATION GRANTS.

Subdivision 1. **Grants authorized.** (a) The commissioner may make grants to local governments to:

(1) conduct floodplain damage reduction studies to determine the most feasible, practical, and effective methods and programs for mitigating the damages due to flooding within flood-prone rural and urban areas and their watersheds; and

(2) plan and implement flood mitigation measures.

(b) The commissioner may cooperate with the North Dakota State Water Commission, local governmental units, and local water management organizations in this state and in North Dakota, and the United States Army Corps of Engineers to develop hydrologic models and conduct studies to evaluate the practicality and feasibility of flood control measures along the Red River from East Grand Forks to the Canadian border. The commissioner may make grants to local governmental units for these purposes. Flood control measures that may be investigated include agricultural and urban levee systems, wetland restoration, floodwater impoundments, farmstead ring-dikes, and stream maintenance activities.

Subd. 2. **Action on grant applications.** (a) A local government may apply to the commissioner for a grant on forms provided by the commissioner. The commissioner shall confer with the local government requesting the grant and may make a grant up to $150,000 based on the following considerations:

(1) the extent and effectiveness of mitigation measures already implemented by the local government requesting the grant;

(2) the feasibility, practicality, and effectiveness of the proposed mitigation measures and the associated nonflood related benefits and detriments;

(3) the level of grant assistance that should be provided to the local government, based on available facts regarding the nature, extent, and severity of flood problems;

(4) the frequency of occurrence of severe flooding that has resulted in declaration of the area as a flood disaster area by the president of the United States;

(5) the economic, social, and environmental benefits and detriments of the proposed mitigation measures;

(6) whether the floodplain management ordinance or regulation adopted by the local government meets the minimum standards established by the commissioner, the degree of enforcement of the ordinance or regulation, and whether the local government is complying with the ordinance or regulation;

(7) the degree to which the grant request is consistent with local water plans developed under chapters 103B and 103D;

(8) the financial capability of the local government to solve its flood hazard problems without financial assistance; and

(9) the estimated cost and method of financing of the proposed mitigation measures based on local money and federal and state financial assistance.

(b) If the amount of the grant requested is $150,000 or more, the commissioner shall determine, under the considerations in paragraph (a), whether any part of the grant should be awarded. The commissioner must submit an appropriation request to the governor and the legislature for funding consideration before each odd-numbered year, consisting of requests or parts of grant requests of $150,000 or more. The commissioner must prioritize the grant requests, under the considerations in paragraph (a), beginning with the projects the commissioner determines most deserving of financing.

(c) A grant may not exceed one-half the total cost of the proposed mitigation measures.

(d) After July 1, 1991, grants made under this section may be made to local governments whose grant requests are part of, or responsive to, a comprehensive local water plan prepared under chapter 103B or 103D.

Subd. 3. **Red River basin flood mitigation projects.** Notwithstanding subdivision 2, a grant for implementation of a flood hazard mitigation project in the Red River basin that is consistent with the 1998 mediation agreement and approved by the Red River flood damage reduction work group may be for up to 75 percent of the cost of the proposed mitigation measures.

History: *1990 c 391 art 6 s 14; 1994 c 627 s 1; 1998 c 401 s 37; 2000 c 492 art 1 s 41; 2010 c 189 s 37*

103F.165 FLOOD INSURANCE.

Subdivision 1. **Policy.** It is the policy of the state that local governmental units subject to recurrent flooding participate in the national flood insurance program, Public Law 90-448, and amendatory and supplementary acts, so that the people of the state may have the opportunity to indemnify themselves from future flood losses through the purchase of the insurance.

Subd. 2. MS 2012 [Repealed, 2014 c 289 s 70]

Subd. 3. **Applying for flood insurance.** After receiving notice from the commissioner or the Federal Emergency Management Agency that flood hazard areas have been identified, each local governmental unit is encouraged to apply for participation in the national flood insurance program in the manner prescribed by federal laws and regulations.

History: *1990 c 391 art 6 s 15; 2014 c 289 s 53*

SOUTHERN MINNESOTA RIVERS BASIN AREA II

103F.171 SOUTHERN MINNESOTA RIVERS BASIN AREA II BOUNDARIES.

For the purposes of sections 103F.171 to 103F.187, the term "Southern Minnesota Rivers Basin Area II" means the area within the watersheds of rivers and streams that are tributaries of the Minnesota River from the south between the cities of Ortonville and Mankato. Major rivers included within the watershed are the Yellow Bank, Lac Qui Parle, Yellow Medicine, Redwood, and Cottonwood. All of Lac Qui Parle, Yellow Medicine, and Redwood Counties, and parts of Lincoln, Lyon, Pipestone, Murray, Cottonwood, and Brown Counties are included within the boundaries of the area.

History: *1990 c 391 art 6 s 16*

103F.173 PROGRAM.

There shall be a state grant-in-aid pilot program of providing financial assistance to units of local government, including counties, soil and water conservation districts, and watershed districts, located in the Southern Minnesota River Basin Area II for project and construction costs for the building of floodwater retarding and retention structures within a general plan for floodplain management.

History: *1990 c 391 art 6 s 17*

103F.175 AID FORMULA.

Grants may be made by the Board of Water and Soil Resources to a local governmental unit for the purposes of sections 103F.171 to 103F.187 in an amount not to exceed 75 percent of the total cost of each project, including site acquisition, engineering, and construction. If federal funds are being utilized for a portion of the project costs, the state contribution may not exceed 50 percent of the remaining nonfederal costs. If the structure is located in the state of South Dakota, the two states shall share the nonfederal costs equally. Money granted by the state may not be used for any project of stream channelization.

History: *1990 c 391 art 6 s 18*

103F.177 OPERATION WITHIN AGENCY.

Subdivision 1. **Board of Water and Soil Resources.** The Board of Water and Soil Resources shall supervise the grant-in-aid pilot program pursuant to sections 103F.171 to 103F.187.

Subd. 2. **Procedures and forms.** The board shall devise procedures and forms for application for grants by the local units of government, and review of and decision on the applications by the state board.

Subd. 3. **Staff position.** A professional engineer shall be employed by the board to work exclusively on the technical implementation and engineering of the pilot project established pursuant to sections 103F.171 to 103F.187. The engineer shall assist the local units of government and the board to achieve the purposes of the project, and shall have duties including:

(1) field review and analysis of projects and project sites;

(2) preparation of permit applications, including evaluation of environmental effects;

(3) development of recommended pertinent provisions of permits for specific projects;

(4) preparation of plans for further consideration of remedial flood control structural measures as part of a general rural floodplain management effort; and

(5) evaluation of the effectiveness of completed projects constructed under this program.

History: *1990 c 391 art 6 s 19*

103F.179 SELECTING PROJECTS.

Subdivision 1. **Evaluating area and sites; federal cooperation.** Before a grant is made, a priority system shall be devised for the selection of projects to receive the aid. The Board of Water and Soil Resources is the granting authority and shall cooperate with the United States Army Corps of Engineers, the Department of Natural Resources, the United States Natural Resources Conservation Service and the Area II Action Committee in analysis of the general floodplain management plan for the area and in hydrological and engineering studies on specific proposed sites. From that information, the Board of Water and Soil Resources shall determine the relative severity of the flooding problem which would be wholly or partly solved by each project. The range of priorities based on these findings shall provide a basis for selection of project sites.

Subd. 2. **Project requirement for each watershed.** Notwithstanding the requirement in subdivision 1 that project selection be based on a priority system, not more than one project may be located within any one of the Cottonwood, Lac Qui Parle, Redwood, Yellow Medicine, and Yellow Bank Rivers' watersheds unless agreed upon by the Area II Action Committee composed of representatives of each of those watersheds.

History: *1990 c 391 art 6 s 20; 2015 c 21 art 1 s 109*

103F.181 CONDITIONS FOR GRANTS.

Subdivision 1. **Local expression of willingness.** The local unit of government shall apply for a grant by a resolution requesting state funding assistance for the construction of a floodwater retention or retarding structure within its jurisdiction. The resolution shall include provisions concerning local funding, if any. The local unit of government shall state its intent to obtain necessary land rights for proposed construction sites and to assume responsibility for maintenance of the structure on its completion.

Subd. 2. **General plan.** The local unit of government shall demonstrate that the construction project that it proposes is consistent with its general plan for floodplain management. The general plan of the local government unit shall be in conformity with the policy and objectives of this chapter and shall, where reasonable and practicable, include nonstructural means of floodplain management.

Subd. 3. **Federal aid availability.** The Board of Water and Soil Resources shall complete a detailed analysis of the availability of federal funds and programs to supplement or complement state and local efforts on each project and include the eligibility requirements and time frame for receiving the federal aid.

Subd. 4. **Environmental impact statement.** The local unit of government, assisted by the project staff engineer, shall make a comprehensive evaluation of the positive and negative environmental effects which would be reasonably likely to take place if the particular proposed project would be constructed.

History: *1990 c 391 art 6 s 21*

103F.183 APPROVED PROJECTS.

Subdivision 1. **Contracts.** When a proposed project is approved to receive a grant, the Board of Water and Soil Resources shall negotiate a contract with the local unit of government involved. The contract shall specify the terms of state and local cooperation, including the financing arrangement for the construction and an agreement on maintenance of the structure after completion.

Subd. 2. **Permits.** Before grant money is spent on construction of the structure, permits required for construction must be obtained from state agencies.

History: *1990 c 391 art 6 s 22*

103F.185 INTERSTATE COOPERATION.

The Board of Water and Soil Resources and the staff engineer may enter into a working agreement with the South Dakota-Minnesota Boundary Waters Commission, or successor organization, in regard to flood retention and retarding structures constructed pursuant to sections 103F.171 to 103F.187 that involve territory of the state of South Dakota as well as this state.

History: *1990 c 391 art 6 s 23*

103F.187 REPORT TO LEGISLATURE.

When the project has been in operation for a period of two years, the Board of Water and Soil Resources and the staff engineer shall prepare and deliver a report to the legislature on the program and its consequences with an evaluation of the feasibility and benefit of continuing the project.

History: *1990 c 391 art 6 s 24*

SHORELAND DEVELOPMENT

103F.201 REGULATORY PURPOSE OF SHORELAND DEVELOPMENT.

To promote the policies in section 103A.201 and chapter 116, it is in the interest of the public health, safety, and welfare to:

(1) provide guidance for the wise development of shorelands of public waters and thus preserve and enhance the quality of surface waters;

(2) preserve the economic and natural environmental values of shorelands; and

(3) provide for the wise use of water and related land resources of the state.

History: *1990 c 391 art 6 s 25*

103F.205 DEFINITIONS.

Subdivision 1. **Applicability.** The definitions in this section apply to sections 103F.201 to 103F.227.

Subd. 2. **Commissioner.** "Commissioner" means the commissioner of natural resources.

Subd. 3. **Municipality.** "Municipality" means a statutory or home rule charter city.

Subd. 4. **Shoreland.** "Shoreland" means land located within the following distances from the ordinary high water elevation of public waters:

(1) land within 1,000 feet from the normal high watermark of a lake, pond, or flowage; and

(2) land within 300 feet of a river or stream or the landward side of a floodplain delineated by ordinance on the river or stream, whichever is greater.

History: *1990 c 391 art 6 s 26; 2002 c 393 s 44; 2006 c 212 art 3 s 6; 2007 c 92 s 1*

103F.211 MODEL STANDARDS AND CRITERIA.

Subdivision 1. **Adoption.** The commissioner shall adopt model standards and criteria for the subdivision, use, and development of shoreland in municipalities and areas outside of a municipality. The authority to adopt model standards and criteria is exempt from the 18-month time limit under section 14.125 and does not expire. The standards and criteria must include:

(1) the area of a lot and length of water frontage suitable for a building site;

(2) the placement of structures in relation to shorelines and roads;

(3) the placement and construction of sanitary and waste disposal facilities;

(4) designation of types of land uses;

(5) changes in bottom contours of adjacent public waters;

(6) preservation of natural shorelands through the restriction of land uses;

(7) variances from the minimum standards and criteria; and

(8) for areas outside of a municipality only, a model ordinance.

Subd. 2. **Intergovernmental advice.** The state Departments of Administration, Agriculture, Health, and Employment and Economic Development; the Pollution Control Agency; the Board of Water and Soil Resources; and the Minnesota Historical Society shall provide information and advice necessary to prepare or amend the standards and criteria.

Subd. 3. **Approval of commissioners of health and Pollution Control Agency.** In addition to other requirements of chapter 14, the model standards and ordinance adopted under this section, or amendments to them must not be finally adopted unless approved by the commissioners of health and of the Pollution Control Agency.

Subd. 4. **Removing logs, dead trees, and branches.** The removal of logs and dead trees and branches from the shoreland is exempt from any permit requirements, unless required by a local government unit. Before a person removes logs or dead trees and branches from publicly owned land or land owned by another, the person must obtain permission from the landowner or manager. Public entities are encouraged to allow

for the removal of logs and dead trees and branches that present a safety hazard on land managed by the public entity.

History: *1990 c 391 art 6 s 27; 1Sp2003 c 4 s 1; 2012 c 272 s 39; 2022 c 55 art 1 s 20; 2024 c 116 art 3 s 46*

103F.215 MODEL ORDINANCE AS COUNTY ORDINANCE.

Subdivision 1. **County ordinance failing to meet standards.** The commissioner shall adapt the model ordinance to a county if, after notice and hearing as provided in section 103G.311, the commissioner finds that a county has failed to adopt a shoreland conservation ordinance or that a county has adopted a shoreland conservation ordinance that fails to meet the minimum standards established under section 103F.211.

Subd. 2. **Hearing.** The commissioner shall hold at least one public hearing on the proposed ordinance in the manner provided in section 394.26, after giving notice as provided in section 394.26. The ordinance is effective for the county on the date and in accordance with any rules the commissioner prescribes, by order, relating to compliance.

Subd. 3. **Enforcement.** The ordinance must be enforced as provided in section 394.37. The penalties provided in section 394.37 apply to violations of the commissioner's model ordinance for the county.

Subd. 4. **Commissioner's costs.** The cost incurred by the commissioner in adapting the model ordinance to a county under this section must be paid by the county after the commissioner submits an itemized statement of the costs to the county. If the county fails to pay the costs within 90 days after the commissioner's statement is received, the commissioner may file a copy of the statement of the costs for collection by special tax levy with the county auditor. The county auditor, upon receiving a statement from the commissioner, shall include the amount of the state's claim in the tax levy for general revenue purposes of the county. On completion of the tax settlement following this levy, the county treasurer must pay the amount due to the state to the commissioner for deposit in the state treasury.

History: *1990 c 391 art 6 s 28; 1991 c 199 art 1 s 17; 1995 c 218 s 1*

103F.221 MUNICIPAL SHORELAND MANAGEMENT.

Subdivision 1. **Commissioner's review of ordinances.** (a) A municipality having shoreland within its corporate boundaries must submit ordinances or rules affecting the use and development of its shorelands to the commissioner for review. The commissioner must review the ordinances or rules and:

(1) determine whether the rules and ordinances are in substantial compliance with municipal shoreland management standards and criteria under section 103F.211; and

(2) consider any feature unique to the municipal shoreland in question, including the characteristics of the waters that may be affected by development, storm sewer facilities, and sanitary and waste disposal facilities in existence at the time of the commissioner's review.

(b) If the commissioner determines that the ordinances or rules of a municipality do not substantially comply with the state standards and criteria for municipal shoreland management, the commissioner must notify the municipality. The notice must state the changes that are necessary to bring the ordinances or rules into substantial compliance with the standards and criteria. By one year after receiving the notice from the commissioner, the municipality must make changes necessary to bring the ordinances or rules into substantial compliance with state standards and criteria.

Subd. 2. **Commissioner's adoption of ordinance for municipality.** (a) The commissioner may adopt an ordinance or rules for the municipality if:

(1) a municipality does not have an ordinance or rule affecting the use and development of shoreland;

(2) the corporate boundaries of the municipality are expanded to include shorelands not previously included within the municipal boundaries and the municipality fails to adopt an ordinance within one year after including the shorelands within its municipal boundaries; or

(3) the commissioner determines that a municipal shoreland management ordinance does not substantially comply with the standards and criteria for municipal shoreland management and that the municipality has failed to make the necessary changes within one year after receiving notice of noncompliance.

(b) The ordinance or rules for the municipality must be adopted as provided in this paragraph. The commissioner must hold at least one public hearing on the proposed ordinance or rules in the manner provided in section 462.357, after giving notice under section 462.357. The ordinance or rules are effective for the municipality on the date and in accordance with rules prescribed by the commissioner relating to compliance.

(c) The ordinance must be enforced as provided in section 462.362. The penalties in section 462.362 apply to violations of the ordinances or rules adopted for the municipality by the commissioner.

Subd. 3. **Commissioner's cost of adopting ordinances.** The costs incurred by the commissioner in adopting the ordinances or rules for the municipality must be paid by the municipality and collected from the municipality in the same manner as costs are paid by a county and collected from a county under section 103F.215, subdivision 4.

Subd. 4. **Municipal use of land other than shoreland.** Municipal planning and land use controls for land other than shoreland in the vicinity of shoreland must be, to the maximum extent practical, compatible with planning and land use controls for shoreland adopted under subdivision 1.

Subd. 5. **Municipal ordinance; more restrictive.** A municipality may adopt and enforce ordinances or rules affecting the use and development of shoreland that are more restrictive than the standards and criteria adopted by the commissioner.

History: *1990 c 391 art 6 s 29; 1992 c 511 art 5 s 4; 1995 c 218 s 2*

103F.225 MS 2002 [Expired, 2002 c 393 s 45]

103F.227 SHORELAND DEVELOPMENT; EXISTING RESORTS.

Subdivision 1. **Applicability.** This section applies statewide and preempts local ordinances that are inconsistent with its terms. A county or municipality may by ordinance impose upon resorts reasonable regulations to prevent and abate nuisances and to protect the public health, welfare, safety, and environment.

Subd. 2. **Resort defined.** For purposes of this section, "resort" means a shoreland commercial establishment, existing on or before August 1, 2007, that includes buildings, lodges, structures, dwelling units, camping or recreational vehicle sites, or enclosures, or any part thereof kept, used, maintained, or advertised as or held out to the public to be a place where sleeping accommodations are furnished to the public, primarily to persons seeking recreation, for periods of one day or longer, and having for rent three or more cabins, rooms, campsites, or enclosures. A shoreland commercial establishment must be primarily service oriented for transient lodging of guests. All cabins, rooms, dwelling units, camping or recreational vehicle sites, or enclosures must be included in the resort rental business. Resorts must not allow residential use of a dwelling unit or site, except dwellings used as residences for the service providers. To qualify as a

resort under this section, a resort must be fully licensed and permitted under appropriate state and local regulations. The entire parcel of land must be controlled and managed by the licensee.

Subd. 3. **Maintenance and replacement.** (a) So long as the establishment continues to operate as a resort, a county or municipality must allow a resort owner to:

(1) maintain structures, including the replacement of aging or outdated components or systems of the structure, while not increasing the structure's footprint on the land; and

(2) replace structures damaged or lost to fire or natural disaster.

(b) Paragraph (a), clause (2), applies only when an application for a building permit is made within 180 days of the damage or loss.

Subd. 4. **Expansion.** A county or municipality must allow a resort owner to increase a structure footprint to minimally meet federal, state, or local dwelling standards or codes. To "minimally meet" the standards or codes means that the replacement structure does not add new architectural elements, such as more bedrooms, that did not exist in the original structure. Structural expansion under this subdivision must not result in a structure that is any larger than required to meet standards or codes or a structure or any portion that is any closer to the shoreline than prior to the expansion.

Subd. 5. **Change in ownership.** A change in ownership of a resort shall not be construed as a conversion to a different use so long as the new owner continues to use the property as a resort.

History: *2007 c 92 s 2*

WILD AND SCENIC RIVERS ACT

103F.301 CITATION.

Sections 103F.301 to 103F.345 may be cited as the "Minnesota Wild and Scenic Rivers Act."

History: *1990 c 391 art 6 s 30*

103F.305 SCENIC RIVER PROTECTION POLICY.

The legislature finds that certain of Minnesota's rivers and their adjacent lands possess outstanding scenic, recreational, natural, historical, scientific and similar values. It is in the interest of present and future generations to retain these values, and a policy of the state, and an authorized public purpose to preserve and protect these rivers.

History: *1990 c 391 art 6 s 31*

103F.311 DEFINITIONS.

Subdivision 1. **Applicability.** The definitions in this section apply to sections 103F.311 to 103F.345.

Subd. 2. **Commissioner.** "Commissioner" means the commissioner of natural resources.

Subd. 3. **Free-flowing.** "Free-flowing" means existing in natural condition without significant artificial modification such as impoundment, diversion, or straightening. The existence, however, of low dams, diversion works or other minor structures at the time any river is proposed for inclusion does not automatically bar its inclusion as a wild, scenic, or recreational river.

Subd. 4. **Recreational rivers.** "Recreational rivers" are those rivers that may have undergone some impoundment or diversion in the past and may have adjacent lands that are considerably developed, but that are still capable of being managed so as to further the purposes of sections 103F.301 to 103F.345.

Subd. 5. **River.** "River" means a flowing body of water such as a stream or a segment or tributary of a stream and may include lakes through which the river or stream flows.

Subd. 6. **Scenic easement.** "Scenic easement" means an interest in land, less than the fee title, that limits the use of the land to protect the scenic, recreational, or natural characteristics of a wild, scenic, or recreational river area. Unless otherwise expressly and specifically provided by the parties, the easement must be:

(1) perpetually held for the benefit of the people of the state;

(2) specifically enforceable by its holder or any beneficiary;

(3) binding upon the holder of the servient estate, and the holder's heirs, successors, and assigns; and

(4) restricted so as not to give the holder or any beneficiary the right to enter on the land except for enforcement of the easement.

Subd. 7. **Scenic rivers.** "Scenic rivers" are those rivers that exist in a free-flowing state and with adjacent lands that are largely undeveloped.

Subd. 8. **System.** "System" means the state wild and scenic rivers system.

Subd. 9. **Wild rivers.** "Wild rivers" are those rivers that exist in a free-flowing state, with excellent water quality, and with adjacent lands that are essentially primitive.

History: *1990 c 391 art 6 s 32*

103F.315 WILD AND SCENIC RIVERS SYSTEM.

Subdivision 1. **Eligibility.** An entire river or a segment of a river and adjacent lands in this state that possess outstanding scenic, recreational, natural, historical, scientific, or similar values are eligible for inclusion within the Minnesota wild and scenic rivers system.

Subd. 2. **Classification.** Rivers or segments of rivers included within the system shall be classified as wild, scenic, or recreational.

History: *1990 c 391 art 6 s 33*

103F.321 ADMINISTRATION AND RULES.

Subdivision 1. **Administration.** The commissioner shall administer the wild and scenic rivers system. The commissioner shall conduct studies, develop criteria for classification and designation of rivers, designate rivers for inclusion within the system, manage the components of the system, and adopt rules to manage and administer the system.

Subd. 2. **Shoreland rules.** (a) The commissioner shall adopt statewide minimum standards and criteria for the preservation and protection of shorelands within the boundaries of wild, scenic, and recreational rivers.

(b) The standards and criteria may include:

(1) the matters covered in the commissioner's standards and criteria for shoreland areas, as provided in sections 103F.201 to 103F.221, except that the distance limitations contained in sections 103F.201 to 103F.221 do not apply to standards and criteria for wild, scenic, and recreational rivers;

(2) furtherance of the purposes of sections 103F.301 to 103F.345 and of the classifications of rivers; and

(3) application to the local governments as specified in sections 103F.201 to 103F.221.

Subd. 3. **Home-based business; conditional use.** A local unit of government may issue a conditional use permit in a wild and scenic river district designated pursuant to sections 103F.301 to 103F.351 to a home-based business that:

(1) is located on property that includes the primary residence of the business owner;

(2) is conducted within the primary residence or residential accessory structure and the residence and accessory structures were constructed prior to May 23, 2009;

(3) does not necessitate creation of additional impervious surface for vehicular parking on the property;

(4) satisfies all other requirements in a conditional use permit issued by the local unit of government; and

(5) satisfies all other state and local requirements applicable to the type of business.

Subd. 4. **Removing logs, dead trees, and branches.** The removal of logs and dead trees and branches from the shoreland is exempt from any permit requirements when the logs or dead trees and branches present safety hazards, unless required by a local government unit. Before a person removes logs or dead trees and branches from publicly owned land or land owned by another, the person must obtain permission from the landowner or manager. Public entities are encouraged to allow for the removal of logs and dead trees and branches that present a safety hazard on land managed by the public entity.

History: *1990 c 391 art 6 s 34; 2009 c 176 art 3 s 5; 2012 c 272 s 40*

103F.325 DESIGNATION PROCEDURE.

Subdivision 1. **Management plan.** (a) For each river proposed to be included in the wild and scenic rivers system, the commissioner shall prepare a management plan, without unreasonable restrictions upon compatible, preexisting, economic uses of particular tracts of land, to preserve and enhance the values that cause the river to be proposed for inclusion in the system.

(b) The plan shall:

(1) give primary emphasis to the area's scenic, recreational, natural, historical, scientific and similar values;

(2) state the proposed classification of the river and segments of the river;

(3) designate the boundaries of the area along the river to be included within the system, which may not include more than 320 acres per mile on both sides of the river; and

(4) include proposed rules governing the use of public lands and waters within the area, which may differ from statewide rules to the extent necessary to take account of the particular attributes of the area.

(c) The plan may include proposed standards and criteria adopted under section 103F.321 for local land use controls that differ from statewide standards and criteria to the extent necessary to take account of the particular attributes of the area.

Subd. 2. **Review and hearing.** (a) The commissioner shall make the proposed management plan available to affected local governmental bodies, shoreland owners, conservation and outdoor recreation groups, the commissioner of employment and economic development, the commissioner of commerce, the governor, and the general public. The commissioners of employment and economic development, the State Energy Office in the Department of Commerce, and the governor shall review the proposed management plan in accordance with the criteria in section 86A.09, subdivision 3, and submit any written comments to the commissioner within 60 days after receipt of the proposed management plan.

(b) By 60 days after making the information available, the commissioner shall conduct a public hearing on the proposed management plan in the county seat of each county that contains a portion of the designated system area, in the manner provided in chapter 14.

Subd. 3. **Posthearing review.** Upon receipt of the administrative law judge's report, the commissioner shall immediately forward the proposed management plan and the administrative law judge's report to the commissioners of employment and economic development and of commerce for review under section 86A.09, subdivision 3, except that the review by the commissioners must be completed or be deemed completed within 30 days after receiving the administrative law judge's report, and the review by the governor must be completed or be deemed completed within 15 days after receipt.

Subd. 4. **Designating river as part of system.** Within 60 days after receipt of the administrative law judge's report, the commissioner shall decide whether to designate by order the river or a segment of the river as a wild, scenic, or recreational river and, if so designated, shall adopt a management plan to govern the area. The commissioner shall notify and inform public agencies and private landowners of the plan and its purposes to encourage their cooperation in the management and use of their land in a manner consistent with the plan and its purposes.

Subd. 5. **Legislative authority.** The legislature may at any time designate additional rivers to be included within the system, exclude rivers previously included in the system, or change the classification of rivers classified by the commissioner.

History: *1987 c 186 s 15; 1990 c 391 art 6 s 35; 1Sp2001 c 4 art 6 s 15,16; 1Sp2003 c 4 s 1*

103F.331 ACQUIRING AND DEVELOPING SYSTEM.

Subdivision 1. **Acquisition authority.** To implement the system, the commissioner may acquire the title, scenic easements, or other interests in land, by purchase, grant, gift, devise, exchange, lease, or other lawful means.

Subd. 2. **Developing public areas.** The commissioner may designate and develop appropriate areas of public land along wild, scenic, and recreational rivers as water waysides for facilities compatible with the class of river, including, as appropriate, primitive campsites, picnic sites, portages, water-access sites, sanitation facilities, and interpretive display.

Subd. 3. **State water trails.** (a) The commissioner may mark state water trails along a wild, scenic, or recreational river, consistent with the classification and characteristics of the river, including points of interest, portages, campsites, dams, rapids, waterfalls, whirlpools, and other hazards to navigation.

(b) State water trails, campsites, and portages marked under this subdivision are not subject to the provisions of section 160.06.

Subd. 4. **Additional designation as trout stream.** The commissioner may designate all or a portion of a state wild, scenic, or recreational river that possesses the necessary qualifications as a state trout stream, and make habitat improvement as may be necessary, desirable, and consistent with the classification of the river.

History: *1990 c 391 art 6 s 36; 2010 c 361 art 4 s 82*

103F.335 LOCAL GOVERNMENT COMPLIANCE.

Subdivision 1. **Compliant ordinances required.** (a) Within six months after establishment of a wild, scenic, or recreational river system, each local governmental unit with jurisdiction over a portion of the system shall adopt or amend its ordinances and land use district maps to the extent necessary to comply with the standards and criteria of the commissioner and the management plan.

(b) If a local government fails to adopt adequate ordinances, maps, or amendments within six months, the commissioner shall adopt the ordinances, maps, or amendments in the manner and with the effect specified in section 103F.215.

(c) The commissioner shall assist local governments in the preparation, implementation, and enforcement of the ordinances.

Subd. 2. **Local governmental units to implement.** All state, local and special governmental units, councils, commissions, boards, districts, agencies, departments, and other authorities shall exercise their powers to implement the purposes of sections 103F.301 to 103F.345 and management plans adopted by the commissioner.

Subd. 3. **Land transfers consistent with system plan.** Land owned by the state and political subdivisions shall be administered in accordance with the management plan, and land owned by governmental bodies within the designated boundaries of a wild, scenic, or recreational river area may not be transferred to any other person or entity if the transfer would be inconsistent with the management plan.

History: *1990 c 391 art 6 s 37*

103F.341 FEDERAL-STATE RELATIONS.

Sections 103F.301 to 103F.345 do not preclude a river in the state system from becoming a part of the federal wild and scenic rivers system as established in the Wild and Scenic Rivers Act, Public Law 90-542; United States Code, title 16, section 1271 et seq., as amended. The commissioner is authorized to seek, alone or in conjunction with other governmental authorities, financial and technical assistance from the federal government and to enter into written cooperative agreements for the joint administration of a river in the federal wild and scenic rivers system.

History: *1990 c 391 art 6 s 38*

103F.345 CONFLICT WITH OTHER LAWS.

A river in the wild and scenic rivers system is subject to the provisions of sections 103F.301 to 103F.345, except that in case of conflict with some other law of this state the more protective provision shall apply.

History: *1990 c 391 art 6 s 39*

103F.35 WELCH; GOODHUE COUNTY.

Within the unincorporated area of Welch in Section 28, Township 113 North, Range 16 West, Goodhue County, in areas identified by Goodhue County as having mixed uses, mixed uses may be allowed with a conditional use permit if all other requirements of Goodhue County's scenic river ordinance are met.

History: *2018 c 186 s 5*

LOWER ST. CROIX RIVER

103F.351 LOWER ST. CROIX WILD AND SCENIC RIVER ACT.

Subdivision 1. **Findings.** The lower St. Croix River, between the dam near Taylors Falls and its confluence with the Mississippi River, constitutes a relatively undeveloped scenic and recreational asset lying close to the largest densely populated area of the state. The preservation of this unique scenic and recreational asset is in the public interest and will benefit the health and welfare of the citizens of the state. The state recognizes and concurs in the inclusion of the lower St. Croix River into the federal wild and scenic rivers system by the Lower St. Croix River Act of the 92nd Congress, Public Law 92-560. The authorizations of the state are necessary to the preservation and administration of the lower St. Croix River as a wild and scenic river, particularly in relation to those portions of the river that are to be jointly preserved and administered as a wild and scenic river by this state and Wisconsin.

Subd. 2. **Comprehensive master plan.** (a) The commissioner of natural resources shall join with the secretary of the United States Department of the Interior and the appropriate agency of the state of Wisconsin in the preparation of the comprehensive master plan relating to boundaries, classification, and development required by section 3 of the Lower St. Croix River Act of 1972, and by section 3(b) of the Wild and Scenic Rivers Act, Public Law 90-542.

(b) The commissioner shall make the proposed comprehensive master plan available to affected local governmental bodies, shoreland owners, conservation and outdoor recreation groups, and the general public.

(c) Not less than 30 days after making the information available, the commissioner shall conduct a public hearing on the proposed comprehensive master plan in the county seat of each county which contains a portion of the area covered by the comprehensive master plan, in the manner provided in chapter 14.

Subd. 3. **Acquiring land and easements.** The commissioner of natural resources may acquire land, scenic easements, or other interests in land by gift, purchase, or other lawful means, and may acquire scenic easement interests in land by eminent domain. The acquisitions must be proposed for acquisition by the state by the comprehensive master plan.

Subd. 4. **Rules.** (a) The commissioner of natural resources shall adopt rules that establish guidelines and specify standards for local zoning ordinances applicable to the area within the boundaries covered by the comprehensive master plan.

(b) The guidelines and standards must be consistent with this section, the federal Wild and Scenic Rivers Act, and the federal Lower St. Croix River Act of 1972. The standards specified in the guidelines must include:

(1) the prohibition of new residential, commercial, or industrial uses other than those that are consistent with the above mentioned acts; and

(2) the protection of riverway lands by means of acreage, frontage, and setback requirements on development.

(c) Cities, counties, and towns lying within the areas affected by the guidelines shall adopt zoning ordinances complying with the guidelines and standards within the time schedule prescribed by the commissioner.

(d) In rural districts, as defined in rules adopted pursuant to this section, commercial, nature-oriented, and educational uses may be allowed as conditional uses on properties that were in similar use on May 1, 1974, and on January 1, 2010, if the conditional use:

(1) complies with all dimensional standards in the rules, including variance requirements for any changes to the properties made after January 1, 2010; and

(2) is similar in scope to the use that existed on May 1, 1974.

Subd. 5. **Administration.** The commissioner of natural resources in cooperation with appropriate federal authorities and authorities of the state of Wisconsin shall administer state lands and waters in conformance with this section, the federal Wild and Scenic Rivers Act, and the federal Lower St. Croix River Act of 1972.

History: *1990 c 391 art 6 s 40; 2010 c 338 s 1*

MISSISSIPPI HEADWATERS PLANNING AND MANAGEMENT

103F.361 FINDINGS AND INTENT.

Subdivision 1. **Findings.** The legislature finds that:

(1) 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;

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

(3) 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.

Subd. 2. **Legislative intent.** It is the intent of sections 103F.361 to 103F.377 to authorize and direct the board and zoning authorities to implement the plan for the Mississippi headwaters area.

History: *1990 c 391 art 6 s 41; 1992 c 476 s 1; 1Sp2019 c 4 art 3 s 78*

103F.363 APPLICABILITY.

Subdivision 1. **Generally.** Sections 103F.361 to 103F.377 apply to the counties of Clearwater, Hubbard, Beltrami, Cass, Itasca, Aitkin, Crow Wing, and Morrison and all other zoning authorities.

Subd. 2. **Leech Lake Indian Reservation.** Sections 103F.361 to 103F.377 do not alter or expand the zoning jurisdiction of the counties within the exterior boundaries of the Leech Lake Indian Reservation. The

plan and the county ordinances adopted pursuant to section 103F.369, subdivision 4, apply only to areas within the zoning jurisdiction of the counties as provided by law in effect prior to May 20, 1981.

History: *1990 c 391 art 6 s 42; 1992 c 476 s 2; 1Sp2019 c 4 art 3 s 79*

103F.365 DEFINITIONS.

Subdivision 1. **Applicability.** The definitions in this section apply to sections 103F.361 to 103F.377.

Subd. 2. **Board.** "Board" means the Mississippi Headwaters Board established under section 103F.367.

Subd. 3. **Counties.** "Counties" means the counties of Clearwater, Hubbard, Beltrami, Cass, Itasca, Aitkin, Crow Wing, and Morrison.

Subd. 4. **Plan.** "Plan" means the comprehensive land use plan approved by the board and dated July 1, 1992.

Subd. 5. **Zoning authority.** "Zoning authority" means counties, organized townships, local and special governmental units, joint powers boards, councils, commissions, boards, districts, and all state agencies and departments wholly or partially within the corridor defined by the plan, excluding statutory or home rule charter cities.

History: *1990 c 391 art 6 s 43; 1992 c 476 s 3; 1Sp2019 c 4 art 3 s 80*

103F.367 MISSISSIPPI HEADWATERS BOARD.

Subdivision 1. **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 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. 2. **Membership.** (a) The board shall consist of eight members. The governing body of each county shall appoint one of its members to serve on the board.

(b) The terms of board members are two years commencing on the first Monday in January of odd-numbered years.

(c) Vacancies on the board shall be filled for the remainder of the term by the governing body that made the original appointment.

(d) 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. 3. **Officers.** (a) The board shall annually appoint from among its members a chair, vice-chair, and secretary-treasurer who shall serve for concurrent one-year terms.

(b) The chair shall preside over all meetings of the board and may call special meetings at reasonable times and upon adequate notice when necessary.

(c) The vice-chair shall preside over the meetings of the board in the absence of the chair.

(d) The secretary-treasurer or the designee of the secretary-treasurer shall keep a record of all proceedings of the board. The secretary-treasurer shall provide for the proper receipt and disbursement of funds.

Subd. 4. **Meetings.** (a) The regular meetings of the board shall be held at times and places prescribed by it.

(b) 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.

Subd. 5. **Staff and contracts.** The board may employ staff and contract for goods and services as necessary to implement sections 103F.361 to 103F.377. Contracts are subject to the statutory procedures and restrictions applicable to county contracts.

Subd. 6. **Funding.** 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 103F.361 to 103F.377. 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. **Advisory committees.** 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. 8. **Contact with government 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.

History: *1990 c 391 art 6 s 44; 1992 c 476 s 4*

103F.369 PLAN IMPLEMENTATION.

Subdivision 1. **Implementation required.** The plan shall be implemented by the board as provided in this section and section 103F.373.

Subd. 2. **Minimum standards.** 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, a veterans cemetery that complies with subdivision 5, and open space recreational uses as defined in the plan, state or county lands within the boundaries established by the plan may not 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.

Subd. 3. **Implementation schedule.** 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. 4. **County land use ordinance consistent with plan.** The counties shall adopt land use ordinances consistent with the plan.

Subd. 5. **Veterans cemetery.** A veterans cemetery may be located within the boundaries established by the plan if a site plan approved by the county zoning authority addresses each of the following items:

(1) the name of the cemetery;

(2) a legal description of the property affected;

(3) names and addresses of applicant, owner, surveyor, and designer of the plan;

(4) graphic scale;

(5) an arrow depicting north on the plan;

(6) date of preparation of the plan;

(7) total acreage of property;

(8) square footage for each proposed site;

(9) existing soil conditions, depth of water table, and topographic contours;

(10) roads and proposed roads showing right-of-way widths;

(11) proposed location and type of on-site sanitary treatment facilities and domestic water supply;

(12) accessory facilities, existing or to be constructed, by type and location;

(13) all streams, creeks, ponds, wetlands, and swamps;

(14) burial only on site with no embalming or other related activities on site;

(15) no placement of graves or accessory facilities within the designated floodplain; and

(16) each burial must be in a vault or an appropriate liner as determined by the board.

History: *1990 c 391 art 6 s 45; 1991 c 158 s 1,2; 1992 c 476 s 5-7*

103F.371 RESPONSIBILITIES OF OTHER GOVERNMENTAL UNITS.

(a) 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 103F.361 to 103F.377 and the plan. Land owned by the state, its agencies, and political subdivisions shall be administered in accordance with the plan. The certification procedure under section 103F.373 applies to all zoning authorities in the corridor defined by the plan.

(b) Actions that comply with the land use ordinance are consistent with the plan. Actions that do not comply with the ordinance may not be started until the board has been notified and given an opportunity to review and comment on the consistency of the action with this section.

History: *1990 c 391 art 6 s 46; 1992 c 476 s 8; 1Sp2019 c 4 art 3 s 81*

103F.373 REVIEWING AND CERTIFYING LAND USE ACTIONS.

Subdivision 1. **Purpose.** To ensure that the plan 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 zoning authorities directly or indirectly affecting land use within the area covered by the plan:

(1) the adoption or amendment of an ordinance regulating the use of land, including rezoning of particular tracts of land;

(2) the granting of a variance from provisions of the land use ordinance; and

(3) 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, an action of a type specified in subdivision 1, clauses (1) to (3), is not effective until the board has reviewed the action and certified that it is consistent with the plan. In determining consistency of ordinances and ordinance amendments, the provisions of the plan shall be considered minimum standards. An aggrieved person may appeal a decision of the type specified in subdivision 1, clauses (1) to (3), that 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 the notices of public hearings or, when a hearing is not required, a copy of the application to consider an action of a type specified in subdivision 1, clauses (1) to (3), must be forwarded to the board by the zoning authority at least 15 days before the hearing or meetings to consider the actions. The zoning authority shall notify the board of its final decision on the proposed action within ten days of the decision. By 30 days after the board receives the notice, the board shall notify the zoning authority and the applicant of the board's approval or disapproval of the proposed action.

Subd. 4. **Disapproval of actions.** (a) If a notice of disapproval is issued by the board, the zoning authority or the applicant may, within 30 days of the notice, file with the board a demand for a hearing. If a demand is not filed within the 30-day period, the disapproval becomes final.

(b) If a demand is filed within the 30-day period, a hearing must be held within 60 days of demand. The hearing must be preceded by two weeks' published notice. Within 30 days after the hearing, the board must:

(1) affirm its disapproval of the proposed action; or

(2) certify approval of the proposed action.

History: *1990 c 391 art 6 s 47; 1992 c 476 s 9,10; 1Sp2019 c 4 art 3 s 82-84*

103F.375 INCORPORATION AND ANNEXATION; MORATORIUM.

Subdivision 1. **Moratorium on certain activities.** If land subject to the plan 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:

(1) all subdivision platting and building permits on the land until zoning regulations are adopted for the land that comply with the provisions of the plan; and

(2) construction, grading and filling, and vegetative cutting as those activities are defined in the plan.

Subd. 2. **Exception for work under prior permits.** 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: *1990 c 391 art 6 s 48; 1992 c 476 s 11*

103F.377 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 under sections 103F.361 to 103F.377. The report must include an assessment of the effectiveness of the 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: *1990 c 391 art 6 s 49; 1992 c 476 s 12*

103F.378 MS 2012 [Repealed, 2014 c 248 s 19]

103F.381 MS 2012 [Repealed, 2014 c 248 s 19]

103F.383 Subdivision 1. MS 2004 [Repealed, 2005 c 47 s 4]

Subd. 2. MS 2004 [Repealed, 2005 c 47 s 4]

Subd. 3. MS 2012 [Repealed, 2014 c 248 s 19]

103F.385 MS 2004 [Repealed, 2005 c 47 s 4]

103F.387 MS 2012 [Repealed, 2014 c 248 s 19]

103F.389 Subdivision 1. MS 2012 [Repealed, 2014 c 248 s 19]

Subd. 2. MS 2012 [Repealed, 2014 c 248 s 19]

Subd. 3. MS 2004 [Repealed, 2005 c 47 s 4]

Subd. 4. MS 2004 [Repealed, 2005 c 47 s 4]

103F.391 MS 2012 [Repealed, 2014 c 248 s 19]

103F.393 MS 2004 [Repealed, 2005 c 47 s 4]

SOIL EROSION

103F.401 DEFINITIONS.

Subdivision 1. **Applicability.** The definitions in this section apply to sections 103F.401 to 103F.455.

Subd. 2. **Conservation plan.** "Conservation plan" means a set of practices that will decrease soil erosion to the soil loss limits on a particular parcel of land.

Subd. 3. **Conservation practices.** "Conservation practices" means practices and standards containing a definition, purpose, and conditions that the practice applies including design requirements and specifications containing a statement of details required for installing a conservation practice, including kinds, quality, and quantity of work and materials needed to meet the standards. A conservation practice may be a permanent or temporary, vegetative or structural measure that will aid the control of wind and water erosion. Permanent practices are those that have effective life greater than ten years and include grassed waterways, terraces, field windbreaks, water control structures, grade stabilization structures, sediment retention structures, strip-cropping, and other permanent practices approved by the Board of Water and Soil Resources. Temporary

practices include conservation tillage, contour farming, grasses and legumes in rotation, emergency tillage, and any other cultural practices approved by the Board of Water and Soil Resources.

Subd. 4. **Development activity.** "Development activity" means a physical disturbance of the land, that may result in sedimentation of adjacent lands or waters, associated with activities that include clearing, grading, excavating, transporting, and filling lands. Road construction by federal, state, county, and municipal governments designed according to Department of Transportation standard specifications for construction are not development activities.

Subd. 5. **Erosion.** "Erosion" means any process that removes soil away from the surface of the land by the action of water, wind, or gravity.

Subd. 6. **Excessive soil loss.** "Excessive soil loss" means soil loss that is greater than the soil loss limits. Excessive soil loss may be evidenced by sedimentation on adjoining land or in a body of water.

Subd. 7. **Land occupier.** "Land occupier" means a person, firm, corporation, municipality, or other legal entity that holds title to or is in possession of lands, as owner, lessee, or otherwise. "Land occupier" includes both the owner and the occupier of the land if they are not the same.

Subd. 8. **Local government.** "Local government" means the elected governing body of a county, home rule charter or statutory city, or town, or their designated agents. Agents may include soil and water conservation districts, water management organizations, joint powers boards, watershed districts, and other governmental entities responsible for resource management within the local government's jurisdiction.

Subd. 9. **Sediment.** "Sediment" means solid mineral or organic material that is in suspension, is being transported, or has been moved from its original location by air, water, gravity, or ice, and has been deposited at another location.

Subd. 10. **Soil.** "Soil" means the unconsolidated mineral and organic material on the immediate surface of the earth that serves as natural medium for the growth of land plants.

Subd. 11. **Soil loss limit.** "Soil loss limit" means the maximum amount of soil loss from water or wind erosion, expressed in tons per acre per year, that is allowed by local regulations on a particular soil.

Subd. 12. **Technical guide.** "Technical guide" means the guide developed by the United States Natural Resources Conservation Service and adopted by soil and water conservation districts containing technical information including methods and procedures by which the various types of erosion can be measured, and conservation practice standards and specifications required in the application of soil and water conservation practices.

History: *1990 c 391 art 6 s 57; 2015 c 21 art 1 s 109*

103F.405 SOIL LOSS ORDINANCES.

Subdivision 1. **Authority.** Each statutory or home rule charter city, town, or county that has planning and zoning authority under Minnesota Statutes 2020, sections 366.10 to 366.181, or sections 394.21 to 394.37, or 462.351 to 462.365 is encouraged to adopt a soil loss ordinance. The soil loss ordinance must use the soil loss tolerance for each soil series described in the United States Natural Resources Conservation Service Field Office Technical Guide, or another method approved by the Board of Water and Soil Resources, to determine the soil loss limits, but the soil loss limits must be attainable by the best practicable soil conservation practice. Ordinances adopted by local governments must be consistent with a comprehensive

plan, local water management plan, or watershed management plan developed or amended, adopted, and approved according to chapter 103B, 103C, or 103D.

Subd. 2. **Agents of local governments.** A local government that adopts a soil loss ordinance may enter an agreement with its agent allowing the agent to administer the functions and perform the duties of the local government as provided by sections 103F.401 to 103F.455.

History: *1990 c 391 art 6 s 58; art 10 s 3; 2013 c 143 art 4 s 5; 2023 c 25 s 23*

103F.411 MODEL ORDINANCE.

Subdivision 1. **Authority.** The Board of Water and Soil Resources, in consultation with counties, soil and water conservation districts, and other appropriate agencies, shall adopt a model ordinance and rules that serve as a guide for local governments to implement sections 103F.401 to 103F.455 and provide administrative procedures for the board for sections 103F.401 to 103F.455.

Subd. 2. **Model ordinance.** The model ordinance must specify the technical and administrative procedures required to control soil loss and erosion. The model ordinance is the minimum regulation to be adopted. The model ordinance must use the soil loss tolerance for each soil series described in the United States Natural Resources Conservation Service Field Office Technical Guide to determine soil loss limits, but the soil loss limits must be attainable by the best practicable soil conservation practice.

Subd. 3. **Periodic review.** At least once every five years the board shall review the rules and model ordinance in cooperation with counties, soil and water conservation districts, and appropriate agencies to ensure their continued applicability and relevance.

History: *1990 c 391 art 6 s 59; 2015 c 21 art 1 s 109*

103F.415 EXCESSIVE SOIL LOSS PROHIBITED.

Subdivision 1. **Prohibited activities.** A person may not cause, conduct, contract for, or authorize an activity that causes excessive soil loss.

Subd. 2. **Agricultural land.** A land occupier of agricultural land is not violating subdivision 1 if the occupier is farming by methods that implement the best practicable conservation practices.

Subd. 3. **Woodland.** A land occupier who uses wooded land for pasture must ensure that proper management is used to prevent excessive soil loss due to overgrazing or cattle paths.

History: *1990 c 391 art 6 s 60*

103F.421 ENFORCEMENT.

Subdivision 1. **Complaint.** (a) An adversely affected landowner, an elected or appointed official of the local government, or a soil and water conservation district board member may submit a written complaint to the local government if conditions exist that indicate there is excessive soil loss from a tract of land that affects another tract of land or body of water. The written complaint must contain:

(1) the name and address of the landowner whose land is causing excessive soil loss;

(2) the location of the tract of land with the excessive soil loss;

(3) a description of land or water that is affected by the excessive soil loss; and

(4) a description of the nature of the excessive soil loss and resulting sedimentation.

(b) The local government shall submit the complaint to the soil and water conservation district for soil loss determination.

Subd. 2. **District determination of soil loss.** (a) The soil and water conservation district shall determine the average soil loss in tons per acre per year of the tract of land cited in the complaint.

(b) Representatives of the soil and water conservation district may enter public or private land to make an inspection for the determination of soil loss or to complete the report required by paragraph (c). The landowners must be notified of the time of the inspection and be given an opportunity to be present when the inspection is made.

(c) The soil and water conservation district shall submit a report to the local government that states the average soil loss in tons per acre per year for each tract of land and whether the soil loss is excessive under the applicable soil loss limits. If the soil loss is excessive the report must include identification of existing management practices and a conservation plan and time schedule that will prevent excessive soil loss or reduce the soil loss to the most practicable extent.

Subd. 3. **Mediation.** (a) If the soil and water conservation district report shows that soil loss from the tract of land is excessive and alternative practices are available to reduce the soil loss, the local government shall request the allegedly offending landowner to participate in mediation with the local government.

(b) The local government may appoint the planning and zoning director, a planning commissioner, or other county official to act as a mediator. The local government may also contract with a mediation center to provide mediation services.

(c) The landowner and the local government or its agent must attempt to agree on conservation practices and times to implement the practice that will reduce soil loss to the local soil loss limits.

(d) A mediated settlement must be in writing and filed with the local government.

(e) If the local government and the landowner do not agree to a mediated settlement, or if the landowner refuses to participate in mediation, the local government shall forward the complaint to the county attorney. The county attorney may dismiss the complaint or petition for a hearing under section 103F.425.

Subd. 4. **Application for cost-sharing funds.** The landowner has 90 days after a complaint is substantiated to apply for state cost-sharing funds. Fifty percent of the cost share will be provided if the application is not made within 90 days after the settlement is filed, unless the soil and water conservation district or the board provides an extension. An extension must be granted if funds are not available.

Subd. 5. MS 2014 [Repealed, 1Sp2015 c 4 art 4 s 150]

Subd. 6. **Application of state and federal law.** Nothing in this section is intended to preclude the application of other applicable state or federal law.

History: *1990 c 391 art 6 s 61; 1Sp2015 c 4 art 4 s 77,78*

103F.425 DISTRICT COURT HEARING.

Subdivision 1. **Determining proper conservation plan.** If the landowner and the local government do not agree to a mediated settlement or if the landowner has refused mediation, the county attorney may petition the district court for a hearing. The landowner shall have the opportunity to present the landowner's conservation plan and time schedule as an alternative to the local government conservation plan and time schedule. The court shall order the landowner to implement the conservation plan and time schedule that is

the least burdensome to the landowner and will reduce soil loss to at least the soil loss limit. The court may amend the local government's or landowner's conservation plan and time schedule, or develop a new conservation plan and time schedule. The court shall set times to implement, make satisfactory progress, and complete the conservation plan.

Subd. 2. **Cost-sharing funds.** (a) If the court orders implementation of the landowner's conservation plan and time schedule, or amends the conservation plan and time schedule, or if the court develops a new conservation plan and time schedule, the landowner is eligible to apply for 75 percent cost-share funds for permanent conservation practices. The landowner must apply for the cost share within 90 days after the court order. If the landowner does not apply within 90 days for the cost-sharing funds the cost share is reduced to 50 percent. The court shall establish a time after which the landowner is no longer eligible for cost-sharing funds if an application is not made.

(b) If the court orders a plan and time schedule developed by the district in its report, the landowner is eligible for 50 percent cost share if the landowner applies within 90 days after the court order.

History: *1990 c 391 art 6 s 62*

103F.431 SOIL AND WATER CONSERVATION ASSISTANCE.

A landowner who has filed a mediated settlement under section 103F.421 or who has received a court order under section 103F.425 may request the soil and water conservation district to assist in the planning, design, and application of practices necessary to reduce soil loss to the applicable soil loss limit amounts or to the greatest practical extent. The soil and water conservation district must give the landowner a high priority for technical and cost-sharing assistance.

History: *1990 c 391 art 6 s 63*

103F.435 ATTORNEY AND LOCAL GOVERNMENT MAY PERFORM DUTY OF COUNTY.

The city attorney or town attorney may perform the duties of a county attorney. A city or town may perform the duties of a local government only if the city or town adopts a soil loss ordinance and the land specified in the complaint is located within the city or town.

History: *1990 c 391 art 6 s 64*

103F.441 EROSION CONTROL PLAN FOR DEVELOPMENT ACTIVITIES.

Subdivision 1. **Sedimentation control plan.** (a) A person engaged in a development activity that will disturb over one acre of land must submit a sedimentation control plan and time schedule that will prevent excessive soil loss to the local government having jurisdiction over the land before the development activity is to begin.

(b) A sedimentation control plan and time schedule must specify how the movement of soil and damage to other property during the construction will be minimized, including the use of temporary seeding, fiber mats, plastic, straw, mulch, sediment control basins, and other measures to prevent erosion and sediment damage. The time schedule must establish deadlines for the implementation and completion of each phase or element of the sedimentation control plan.

Subd. 2. **Permit required.** The local government may appoint the zoning and planning director, building inspector, county engineer, or the soil and water conservation district to review the plan and time schedule. If the sedimentation control plan and time schedule will prevent excessive soil loss to the most practicable

extent, the local government must issue a permit that authorizes the development activity contingent upon the implementation and completion of the sedimentation control plan.

Subd. 3. **Penalty.** A person engaged in a development activity who does not obtain a sedimentation control plan permit or does not commence or complete the plan or make satisfactory progress to complete the plan is subject to a civil penalty. Soil conservation practices made in good faith and substantial compliance are a defense.

Subd. 4. **Application.** For counties, the provisions of this section apply only to county jurisdiction over unincorporated areas.

History: *1990 c 391 art 6 s 65*

103F.445 COST-SHARING FUNDS.

Subdivision 1. **Cost share required.** Except for a development activity, a land occupier may not be required to establish soil conservation practices unless state cost-sharing funds have been specifically approved for that land and have been made available to the land occupier under sections 103F.421 and 103F.425, equal to at least 75 percent of the cost of the permanent conservation practices on a voluntary basis, or a 50 percent cost share if an application for cost share is not made within 90 days after the board approves a mediated written agreement or within 90 days after the court orders implementation of a plan and time schedule prepared by the landowner or the court. For mediated settlements, a court order that implements the landowner's alternatives or the court's alternatives must state the time schedule for application for 50 percent cost share. If the court orders implementation of the district's plan and time schedule, a landowner is eligible only for 50 percent cost share.

Subd. 2. **Reviewing requirements.** The Board of Water and Soil Resources shall review these requirements at least once each year and may authorize a district to provide a higher percentage of cost sharing than is required by this section. To aid in this determination, the board may consider the location of the affected area in relation to the priority areas as established in the soil and water conservation district annual and long-range plans.

Subd. 3. **Recording.** The permanent conservation practices must be recorded with the county recorder on the tracts where they occur if the cost-sharing funds are issued to the landowner.

History: *1990 c 391 art 6 s 66*

103F.451 MS 2014 [Repealed, 1Sp2015 c 4 art 4 s 150]

103F.455 PENALTY.

A person who violates section 103F.415, subdivision 1, is subject to a civil penalty up to $500.

History: *1990 c 391 art 6 s 68*

103F.460 MS 1992 [Repealed, 1994 c 557 s 27]

103F.461 MS 2000 [Repealed, 2002 c 220 art 8 s 16]

103F.48 RIPARIAN PROTECTION AND WATER QUALITY PRACTICES.

Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms have the meanings given them.

(b) "Board" means the Board of Water and Soil Resources.

(c) "Buffer" means an area consisting of perennial vegetation, excluding invasive plants and noxious weeds, adjacent to all bodies of water within the state and that protects the water resources of the state from runoff pollution; stabilizes soils, shores, and banks; and protects or provides riparian corridors.

(d) "Buffer-protection map" means buffer maps established and maintained by the commissioner of natural resources.

(e) "Commissioner" means the commissioner of natural resources.

(f) "Executive director" means the executive director of the Board of Water and Soil Resources.

(g) "Local water management authority" means a watershed district, metropolitan water management organization, or county operating separately or jointly in its role as local water management authority under chapter 103B or 103D.

(h) "Normal water level" means the level evidenced by the long-term presence of surface water as indicated directly by hydrophytic plants or hydric soils or indirectly determined via hydrological models or analysis.

(i) "Public waters" means public waters that are on the public waters inventory as provided in section 103G.201.

(j) "With jurisdiction" means a board determination that the county or watershed district has adopted and is implementing a rule, ordinance, or official controls providing procedures for the issuance of administrative penalty orders, enforcement, and appeals for purposes of this section and section 103B.101. This determination is revocable by board action if the adoption and implementation of rule, ordinance, or official controls are not in compliance with the requirements of this section or board-adopted procedures.

Subd. 2. **Purpose.** It is the policy of the state to establish riparian buffers and water quality practices to:

(1) protect state water resources from erosion and runoff pollution;

(2) stabilize soils, shores, and banks; and

(3) protect or provide riparian corridors.

Subd. 3. **Riparian protection; requirements on public waters and public drainage systems.** (a) Except as provided in paragraph (b), landowners owning property adjacent to a water body identified and mapped on a buffer-protection map must maintain a buffer to protect the state's water resources as follows:

(1) for all public waters, the more restrictive of:

(i) a 50-foot average width, 30-foot minimum width, continuous buffer of perennially rooted vegetation; or

(ii) the state shoreland standards and criteria adopted by the commissioner under section 103F.211; and

(2) for public drainage systems established under chapter 103E, a 16.5-foot minimum width continuous buffer as provided in section 103E.021, subdivision 1. The buffer vegetation shall not impede future maintenance of the ditch.

(b) A landowner owning property adjacent to a water body identified in a buffer-protection map and whose property is used for cultivation farming may meet the requirements under paragraph (a) by adopting

an alternative riparian water quality practice, or combination of structural, vegetative, and management practices, based on the Natural Resources Conservation Service Field Office Technical Guide, common alternative practices adopted and published by the board, other practices approved by the board, or practices based on local conditions approved by the local soil and water conservation district that are consistent with the Field Office Technical Guide, that provide water quality protection comparable to the buffer protection for the water body that the property abuts. Included in these practices are retention ponds and alternative measures that prevent overland flow to the water resource.

(c) The width of a buffer on public waters must be measured from the top or crown of the bank. Where there is no defined bank, measurement must be from the edge of the normal water level. The width of the buffer on public drainage systems must be measured as provided in section 103E.021, subdivision 1.

(d) Upon request by a landowner or authorized agent or operator of a landowner, a technical professional employee or contractor of the soil and water conservation district or its delegate may issue a validation of compliance with the requirements of this subdivision. The soil and water conservation district validation may be appealed to the board as described in subdivision 9.

(e) Buffers or alternative water quality practices required under paragraph (a) or (b) must be in place on or before:

(1) November 1, 2017, for public waters; and

(2) November 1, 2018, for public drainage systems.

(f) Nothing in this section limits the eligibility of a landowner or authorized agent or operator of a landowner to participate in federal or state conservation programs, including enrolling or reenrolling in federal conservation programs.

(g) After May 31, 2017, a person planting buffers or water quality protection practices to meet the requirements in paragraph (a) must use only seed mixes verified by the Department of Agriculture as consistent with chapter 18G or 21 to prevent contamination with Palmer amaranth or other noxious weed seeds.

Subd. 4. **Local water resources; riparian protection.** In consultation with local water management authorities, on or before July 1, 2017, the soil and water conservation district shall develop, adopt, and submit to each local water management authority within its boundary a summary of watercourses for inclusion in the local water management authority's plan. A local water management authority that receives a summary of watercourses identified under this subdivision must incorporate an addendum to its comprehensive local water management plan or comprehensive watershed management plan to include the soil and water conservation district recommendations by July 1, 2018. The incorporation to include the summary of watercourses provided by the soil and water conservation district does not require a plan amendment as long as a copy of the included information is distributed to all agencies, organizations, and individuals required to receive a copy of the plan changes. A local water management authority that receives a summary of watercourses identified under this subdivision must address implementation of the soil and water conservation district recommendations when revising its comprehensive local water management plan as part of a regularly scheduled update to its comprehensive local water management plan or development of a comprehensive watershed management plan under section 103B.801.

Subd. 5. **Exemptions.** Land adjacent to waters subject to subdivision 3 is exempt from the water resource protection requirements under subdivision 3, to the extent these exemptions are not inconsistent with the

requirements of the state shoreland rules adopted by the commissioner pursuant to section 103F.211, if it is:

(1) enrolled in the federal Conservation Reserve Program;

(2) used as a public or private water access or recreational use area including stairways, landings, picnic areas, access paths, beach and watercraft access areas, and permitted water-oriented structures as provided in the shoreland model standards and criteria adopted pursuant to section 103F.211 or as provided for in an approved local government shoreland ordinance;

(3) covered by a road, trail, building, or other structures; or

(4) regulated by a national pollutant discharge elimination system/state disposal system (NPDES/SDS) permit under Minnesota Rules, chapter 7090, and provides water resources riparian protection, in any of the following categories:

(i) municipal separate storm sewer system (MS4);

(ii) construction stormwater (CSW); or

(iii) industrial stormwater (ISW);

(5) part of a water-inundation cropping system; or

(6) in a temporary nonvegetated condition due to drainage tile installation and maintenance, alfalfa or other perennial crop or plant seeding, or construction or conservation projects authorized by a federal, state, or local government unit.

Subd. 6. **Local implementation and assistance.** (a) Soil and water conservation districts must assist landowners with implementation of the water resource riparian protection requirements established in this section. For the purposes of this subdivision, assistance includes planning, technical assistance, implementation of approved alternative practices, and tracking progress toward compliance with the requirements.

(b) The commissioner or the board must provide sufficient funding to soil and water conservation districts to implement this section.

Subd. 7. **Corrective actions.** (a) If the soil and water conservation district determines a landowner is not in compliance with this section, the district must notify the county or watershed district with jurisdiction over the noncompliant site and the board. The county or watershed district with jurisdiction or the board must provide the landowner with a list of corrective actions needed to come into compliance and a practical timeline to meet the requirements in this section. The county or watershed district with jurisdiction must provide a copy of the corrective action notice to the board.

(b) A county or watershed district exercising jurisdiction under this subdivision and the enforcement authority granted in section 103B.101, subdivision 12a, shall affirm their jurisdiction and identify the ordinance, rule, or other official controls to carry out the compliance provisions of this section and section 103B.101, subdivision 12a, by notice to the board prior to March 31, 2017. A county or watershed district must provide notice to the board at least 60 days prior to the effective date of a subsequent decision on their jurisdiction.

(c) If the landowner does not comply with the list of actions and timeline provided, the county or watershed district may enforce this section under the authority granted in section 103B.101, subdivision 12a, or by rule of the watershed district or ordinance or other official control of the county. Before exercising

administrative penalty authority, a county or watershed district must adopt a plan consistent with the plan adopted by the board containing procedures for the issuance of administrative penalty orders and may issue orders beginning November 1, 2017. If a county or watershed district with jurisdiction over the noncompliant site has not adopted a plan, rule, ordinance, or official control under this paragraph, the board must enforce this section under the authority granted in section 103B.101, subdivision 12.

(d) If the county, watershed district, or board determines that sufficient steps have been taken to fully resolve noncompliance, all or part of the penalty may be forgiven.

(e) An order issued under paragraph (c) may be appealed to the board as provided under subdivision 9.

(f) A corrective action is not required for conditions resulting from a flood or other act of nature.

(g) A landowner agent or operator of a landowner may not remove or willfully degrade a riparian buffer or water quality practice, wholly or partially, unless the agent or operator has obtained a signed statement from the property owner stating that the permission for the work has been granted by the unit of government authorized to approve the work in this section or that a buffer or water quality practice is not required as validated by the soil and water conservation district. Removal or willful degradation of a riparian buffer or water quality practice, wholly or partially, by an agent or operator is a separate and independent offense and may be subject to the corrective actions and penalties in this subdivision.

Subd. 8. **Withholding funding.** The board may withhold funding from a local water management authority with jurisdiction or a soil and water conservation district that fails to implement this section, or from a local water management authority that fails to implement subdivision 4. Funding may be restored upon the board's approval of a corrective action plan.

Subd. 9. **Appeals of validations and penalty orders.** A landowner or agent or operator may appeal the terms and conditions of a soil and water conservation district validation or an administrative penalty order to the board within 30 days of receipt of written or electronic notice of the validation or order. The request for appeal must be in writing. The appealing party must provide a copy of the validation or order that is being appealed, the basis for the appeal, and any supporting evidence. The request for appeal may be submitted personally, by first class mail, or electronically to the executive director. If a written or electronic request for appeal is not submitted within 30 days, the validation or order is final. The executive director shall review the request and supporting evidence and issue a decision within 60 days of receipt of an appeal. The executive director's decision is appealable directly to the court of appeals pursuant to sections 14.63 to 14.69.

Subd. 10. **Landowner financial assistance and public drainage system procedure.** (a) A landowner or drainage authority may contact the soil and water conservation district for information on how to apply for local, state, or federal cost-share grants, contracts, or loans that are available to establish buffers or other water resource protection measures.

(b) The provisions of sections 103E.011, subdivision 5; 103E.021; and 103E.715 may be used in advance or retroactively to acquire or provide compensation for all or part of the buffer strip establishment or alternative riparian water quality practices as required under subdivision 3, paragraph (a) or (b).

Subd. 11. **State lands.** This section applies to the state and its departments and agencies.

History: *1Sp2015 c 4 art 4 s 79; 2016 c 85 s 4-9; 2017 c 93 art 2 s 105,106; 2024 c 90 art 3 s 61; 2024 c 116 art 4 s 5*

REINVEST IN MINNESOTA RESOURCES LAW

103F.501 SHORT TITLE.

Sections 103F.505 to 103F.531 may be cited as the "Reinvest in Minnesota Resources Law."

History: *1990 c 391 art 6 s 70*

103F.505 PURPOSE AND POLICY.

(a) It is the purpose of sections 103F.505 to 103F.531 to restore certain marginal agricultural land and protect environmentally sensitive areas to:

(1) enhance soil and water quality;

(2) minimize damage to flood-prone areas;

(3) sequester carbon;

(4) support native plant, fish, and wildlife habitats; and

(5) establish perennial vegetation.

(b) It is state policy to encourage:

(1) restoration of wetlands and riparian lands;

(2) restoration and protection of marginal, highly erodible land, particularly land adjacent to public waters, drainage systems, wetlands, and locally designated priority waters; and

(3) protection of environmentally sensitive areas, including wellhead protection areas, grasslands, peatlands, shorelands, karst geology, and forest lands in priority areas.

History: *1990 c 391 art 6 s 71; 1992 c 415 s 1; 2009 c 172 art 2 s 12; 2009 c 176 art 1 s 31; 2023 c 60 art 5 s 16*

103F.511 DEFINITIONS.

Subdivision 1. **Applicability.** The definitions in this section apply to sections 103F.505 to 103F.535.

Subd. 1a. **Agricultural crop production.** "Agricultural crop production" means an agricultural activity that is devoted to producing horticultural, row, close-grown, introduced pasture, or introduced hayland crops and includes but is not limited to tillage, planting, or harvesting operations.

Subd. 1b. **Agricultural land.** "Agricultural land" means land devoted to the following uses and includes any contiguous land associated with the uses:

(1) pasture or hayland for domestic livestock or dairy animals;

(2) producing agricultural crops;

(3) growing nursery stocks; or

(4) animal feedlots.

Subd. 1c. **Approved practice.** "Approved practice" means a conservation practice that may be established on an easement area and that meets the requirements of section 103F.527.

Subd. 2. **Board.** "Board" means the Board of Water and Soil Resources.

Subd. 3. **Conservation easement.** "Conservation easement" means a conservation easement as defined in section 84C.01.

Subd. 3a. **Conservation easement program.** "Conservation easement program" means:

(1) the reinvest in Minnesota reserve program under section 103F.515;

(2) the permanent wetlands preserve program under section 103F.516;

(3) the reinvest in Minnesota clean energy program under section 103F.518; or

(4) the reinvest in Minnesota working lands program under section 103F.519.

Subd. 3b. **Conservation plan.** "Conservation plan" means a written description and map of approved practices that must be applied to or that already exist on an easement area.

Subd. 4. MS 2008 [Repealed, 2009 c 172 art 2 s 32; 2009 c 176 art 1 s 52]

Subd. 5. **Drained wetland.** "Drained wetland" means a former natural wetland that has been altered by draining, dredging, filling, leveling, or other manipulation sufficient to render the land suitable for agricultural crop production.

Subd. 5a. [Renumbered subd 5c]

Subd. 5b. **Food plot.** "Food plot" means an area established to provide food for wildlife.

Subd. 5c. **Grasslands.** "Grasslands" means landscapes that are or were formerly dominated by grasses, that have a low percentage of trees and shrubs, and that provide economic and ecosystem services such as managed grazing, wildlife habitat, carbon sequestration, and water filtration and retention.

Subd. 5d. **Land with crop history.** "Land with crop history" means land that has produced horticultural, row, or close-grown crops or that has been enrolled at a cropland rate in a federal or state conservation program for at least two of the five years preceding an application to enroll the land in a conservation easement program. Land with crop history includes acres devoted to set-aside or conserving use for programs of the United States Department of Agriculture.

Subd. 6. **Landowner.** "Landowner" means an individual or entity that is not prohibited from owning agricultural land under section 500.24 and either owns eligible land or is purchasing eligible land under a contract for deed.

Subd. 7. **Marginal agricultural land.** "Marginal agricultural land" means land that is:

(1) composed of class IIIe, IVe, V, VI, VII, or VIII land as identified in the land capability classification system of the United States Department of Agriculture; or

(2) similar to land described under clause (1) and identified under a land classification system selected by the board.

Subd. 7a. **Pasture.** "Pasture" means land that is used for grazing by domestic livestock and that is not considered land with crop history.

Subd. 7b. **Perennial cover.** "Perennial cover" means:

(1) existing or established perennial vegetation within the easement boundary; or

(2) a restored or existing wetland or water-covered area within the easement boundary.

Subd. 8. **Public waters.** "Public waters" means waters and wetlands as defined in section 103G.005, and inventoried under section 103G.201.

Subd. 8a. MS 2008 [Renumbered subd 8c]

Subd. 8b. MS 2022 [Repealed, 2024 c 90 art 3 s 88]

Subd. 8c. **Riparian land.** "Riparian land" means lands adjacent to public waters, drainage systems, wetlands, or locally designated priority waters.

Subd. 8d. **Restored prairie.** "Restored prairie" means a restoration that uses at least 25 representative and biologically diverse native prairie plant species and that occurs on land that was previously cropped or used as pasture.

Subd. 9. **Sensitive groundwater area.** "Sensitive groundwater area" means a geographic area defined by natural features where there is a significant risk of groundwater degradation from activities conducted at or near the land surface. These areas may be identified by mapping or other appropriate methods determined by the commissioner of natural resources and the Board of Water and Soil Resources. Wellhead protection areas may be designated as a sensitive groundwater area.

Subd. 10. **Wetland.** "Wetland" means land that has a predominance of hydric soils and that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, or that periodically does support, a predominance of hydrophytic vegetation typically adapted for life in saturated soil conditions.

Subd. 11. **Windbreak.** "Windbreak" means a strip or belt of trees, shrubs, or grass barriers at least six rows deep and within 300 feet of the right-of-way of a highway.

History: *1990 c 391 art 6 s 72; 1992 c 415 s 2; 2001 c 99 s 1; 2009 c 172 art 2 s 13-15; 2009 c 176 art 1 s 32-34; 2023 c 25 s 24; 2023 c 60 art 5 s 17,18; 2024 c 90 art 3 s 62-70,87*

103F.515 REINVEST IN MINNESOTA RESERVE PROGRAM.

Subdivision 1. **Establishment.** The board, in consultation with the commissioner of agriculture and the commissioner of natural resources, shall establish and administer the reinvest in Minnesota reserve program. The board shall implement sections 103F.505 to 103F.531. Selection of land for the reinvest in Minnesota reserve program must be based on its benefit to accomplishing the purposes in section 103F.505.

Subd. 2. **Eligible land.** (a) Land may be placed in the reinvest in Minnesota reserve program if the land meets the requirements of paragraphs (b) and (c) or paragraph (d).

(b) Land is eligible if the land:

(1) is marginal agricultural land;

(2) is adjacent to marginal agricultural land and is either beneficial to resource protection or necessary for efficient recording of the land description;

(3) consists of a drained wetland;

(4) is land that with a windbreak or water quality improvement practice would be beneficial to resource protection;

(5) is land in a sensitive groundwater area;

(6) is riparian or floodplain land;

(7) is cropland or noncropland adjacent to restored wetlands to the extent of up to eight acres of cropland or noncropland for each acre of wetland restored;

(8) is a woodlot on agricultural land;

(9) is abandoned building site on agricultural land, provided that funds are not used for compensation of the value of the buildings;

(10) is land used for pasture; or

(11) is land in an environmentally sensitive area, including grasslands, peatlands, shorelands, karst geology, trout stream watersheds, and forest lands in priority areas.

(c) Eligible land under paragraph (a) must:

(1) be owned by the landowner, or a parent or other blood relative of the landowner, for at least one year before the date of application;

(2) not be set aside, enrolled or diverted under another federal or state government program unless enrollment in the reinvest in Minnesota reserve program would provide additional conservation benefits or a longer term of enrollment than under the current federal or state program; and

(3) benefit the purposes in section 103F.505.

(d) Land is eligible if the land is within a wellhead protection area as defined under section 103I.005, subdivision 24, and has a wellhead protection plan approved by the commissioner of health.

(e) In selecting land for enrollment in the program, highest priority must be given to permanent easements that are consistent with the purposes stated in section 103F.505.

Subd. 3. **Conservation easements.** (a) The board may acquire, or accept by gift or donation, conservation easements on eligible land. An easement may be permanent or of limited duration. An easement acquired on land for wetland restoration or windbreak purposes, under subdivision 2, may be only of permanent duration. An easement of limited duration may not be acquired if it is for a period less than 20 years. The negotiation and acquisition of easements authorized by this section are exempt from the contractual provisions of chapters 16B and 16C.

(b) The board may acquire, or accept by gift or donation, flowage easements when necessary for completion of wetland restoration projects.

Subd. 4. **Nature of property rights acquired.** (a) A conservation easement must prohibit:

(1) alteration of wildlife habitat and other natural features, unless specifically approved by the board;

(2) agricultural crop production and livestock grazing, unless specifically approved by the board for conservation management purposes or extreme drought;

(3) spraying with chemicals or mowing, except:

(i) as necessary to comply with noxious weed control laws;

(ii) for emergency control of pests necessary to protect public health; or

(iii) as approved by the board for conservation management purposes; and

(4) extracting or mining any gravel, rock, or topsoil.

(b) A conservation easement is subject to the terms of the agreement provided in subdivision 5.

(c) A conservation easement must allow repairs, improvements, and inspections necessary to maintain public drainage systems provided the easement area is restored to the condition required by the terms of the conservation easement.

(d) Notwithstanding paragraph (a), the board must permit the harvest of native grasses for use in seed production or bioenergy on wellhead protection lands eligible under subdivision 2, paragraph (d).

(e) A conservation easement must allow the board and its employees and agents to enter the easement area for inspection and for enforcing the terms and conditions of the conservation easement.

Subd. 5. **Agreements by landowner.** The board may enroll eligible land in the reinvest in Minnesota reserve program by signing an agreement with a landowner in which the landowner agrees:

(1) to convey to the state a conservation easement that is not subject to any prior liens or encumbrances that are determined to be objectionable by the attorney general;

(2) to seed the land subject to the conservation easement, as specified in the agreement, to establish and maintain perennial cover of either a grass-legume mixture or native grasses for the term of the easement, at seeding rates determined by the board; or to plant trees or carry out other long-term capital improvements approved by the board for soil and water conservation or wildlife management;

(3) to convey to the state a permanent easement for the wetland restoration;

(4) that the easement duration may be lengthened through mutual agreement with the board in consultation with the commissioners of agriculture and natural resources if they determine that the changes effectuate the purpose of the program or facilitate its administration;

(5) to be responsible for operating and maintaining approved practices designated in the conservation plan;

(6) to pay, when due, all taxes and assessments that may be levied against the easement area;

(7) to remove any existing structures as required before the conservation easement is conveyed and not place, erect, or construct structures on the easement area;

(8) to remove any existing hazardous and toxic substances or any pollutants and contaminants before the conservation easement is conveyed and not place such substances, pollutants, or contaminants on the easement area; and

(9) to properly seal all abandoned wells on the easement area before the conservation easement is conveyed and pay all associated costs.

Subd. 6. **Payments for easements.** (a) The board shall establish rates for payments to the landowner for the conservation easement and related practices. The board shall consider market factors, including the

township average equalized estimated market value of property as established by the commissioner of revenue at the time of easement application.

(b) The board may establish a payment system for flowage easements acquired under this section.

(c) For wetland restoration projects involving more than one conservation easement, state payments for restoration costs may exceed the limits set by the board for an individual easement provided the total payment for the restoration project does not exceed the amount payable for the total number of acres involved.

Subd. 7. **Easement renewal.** When a conservation easement of limited duration expires, a new conservation easement and agreement for an additional period of not less than 20 years may be acquired by agreement of the board and the landowner, under the terms of this section. The board may adjust payment rates as a result of renewing an agreement and conservation easement only after examining the condition of the established cover, conservation practices, and land values.

Subd. 8. **Correcting boundary lines.** To correct errors in legal descriptions for easements that affect the ownership interests in the state and adjacent landowners, the board may, in the name of the state, with the approval of the attorney general, convey, without consideration, interests of the state necessary to correct legal descriptions of boundaries. The conveyance must be by quitclaim deed or release in a form approved by the attorney general.

Subd. 9. **Enforcement and damages.** (a) A landowner who violates the term of a conservation easement or agreement under this section, or induces, assists, or allows another to do so, is liable to the state for treble damages if the trespass is willful, but liable for double damages only if the trespass is not willful. The amount of damages is the amount needed to make the state whole or the amount the landowner has gained due to the violation, whichever is greater.

(b) The board may request that the attorney general commence a legal action for a violation, and the attorney general may commence an action for specific performances, injunctive relief, damages, including attorney's fees, and any other appropriate relief to enforce sections 103F.505 to 103F.531 in district court in the county where all or part of the violation is alleged to have been committed, or where the landowner resides or has a principal place of business. In addition to or in lieu of making a request under this paragraph, the board may use its authority under section 103B.101, subdivision 12, to issue a penalty order for a violation. The penalties may be forgiven, in whole or in part, upon compliance with the conservation easement conditions.

(c) A landowner is not in violation of the conservation easement if a failure of approved practices was caused by reasons beyond the landowner's control.

Subd. 10. **Use for mitigation prohibited.** Money made available under the reinvest in Minnesota reserve program may not be used for environmental regulatory or wetland mitigation purposes required under federal or state law.

History: *1990 c 391 art 6 s 73; 1991 c 354 art 10 s 3; 1992 c 415 s 3; 1996 c 449 s 1-3; 1998 c 386 art 2 s 31; 1999 c 231 s 127; 2001 c 99 s 2; 2009 c 172 art 2 s 16-20,31; 2009 c 176 art 1 s 35-39; 2010 c 189 s 38; 2024 c 90 art 3 s 71*

103F.516 PERMANENT WETLANDS PRESERVE.

Subdivision 1. **Easements.** Upon application by a landowner, the board may acquire permanent easements and may pay for the cost of related capital improvement projects to preserve or restore wetlands on land

containing type 1, 2, 3, 4, 5, or 6 wetlands, as defined in United States Fish and Wildlife Service Circular No. 39 (1971 edition), public waters wetlands, or public waters.

Subd. 2. **Nature of property rights acquired.** (a) The nature of property rights acquired in an easement under this section must be consistent with the provisions of section 103F.515, subdivision 4.

(b) A permanent easement may include four adjacent upland acres of land for each acre of wetlands, public waters wetlands, or public waters included.

(c) The easement must require that the landowner control noxious weeds in accordance with sections 18.77 to 18.88.

(d) The permanent easement must be conveyed to the state in recordable form free of any prior title, lien, or encumbrance and must provide for a right of entry by the state for inspection and correction of violations.

Subd. 3. **Payment.** (a) Payment for the conservation easement may be made in ten equal annual payments or, at the option of the landowner, in a lump sum at:

(1) 50 percent of the township average equalized estimated market value of agricultural property as established by the commissioner of revenue at the time of easement application for wetlands, public waters wetlands, or public waters located outside of the metropolitan counties, as defined in section 473.121, subdivision 4, and wetlands located on agricultural lands within a metropolitan county;

(2) for wetlands, public waters wetlands, or public waters located on nonagricultural land within the metropolitan county, 20 percent of the township average equalized estimated market value of agricultural property as established by the commissioner of revenue at the time of easement application; or

(3) for wetlands, public waters wetlands, or public waters connected to a public or private drainage system, an amount determined by the board based on the fair market value of the land if drainage infrastructure were restored.

(b) Payment for adjacent upland acreage of cropped and noncropped land under subdivision 2, paragraph (b), must be made at 90 percent and 60 percent, respectively, of the township average equalized market value of agricultural land as established by the commissioner of revenue at the time of easement application.

Subd. 4. **Enforcement and corrections.** Enforcement of the permanent easement and violation corrections is governed by section 103F.515, subdivisions 8 and 9.

Subd. 5. **Available funds.** A property owner eligible for payments under this section must receive payments to the extent that funds are available. If funds are not available and payments are not made, restrictions on the use of the property owner's wetlands are terminated under this section.

History: *1991 c 354 art 3 s 1; 1994 c 627 s 2; 1995 c 186 s 29; 2001 c 146 s 1-3*

103F.518 REINVEST IN MINNESOTA CLEAN ENERGY PROGRAM.

Subdivision 1. **Establishment.** (a) The board shall establish and administer a reinvest in Minnesota (RIM) clean energy program that is in addition to the program under section 103F.515. Selection of land for the clean energy program must be based on its potential benefits for bioenergy crop production, water quality, soil health, reduction of chemical inputs, soil carbon storage, biodiversity, and wildlife habitat.

(b) For the purposes of this section, "diverse native prairie" means a prairie planted from a mix of local Minnesota native prairie species. A selection from all available native prairie species may be made so as to match species appropriate to local site conditions.

Subd. 2. **Eligible land.** Eligible land under this section must:

(1) be owned by the landowner, or a parent or other blood relative of the landowner, for at least one year before the date of application;

(2) be at least five acres in size;

(3) not be currently set aside, enrolled, or diverted under another federal or state government program; and

(4) have been in agricultural use, as defined in section 17.81, subdivision 4, or have been set aside, enrolled, or diverted under another federal or state program for at least two of the last five years before the date of application.

Subd. 3. **Designating project areas.** The board shall develop a process to designate defined project areas. The designation process shall prioritize projects that include coordinated cooperation of a cellulosic biofuel facility or a bioenergy production facility, target impaired waters, or support other state or local natural resource plans, goals, or objectives.

Subd. 4. **Easements.** The board may acquire, or accept by gift or donation, easements on eligible land. An easement may be permanent or of limited duration. An easement of limited duration may not be acquired if it is for a period less than 20 years. The negotiation and acquisition of easements authorized by this section are exempt from the contractual provisions of chapters 16B and 16C.

Subd. 5. **Nature of property rights acquired.** (a) An easement must prohibit:

(1) agricultural crop production, unless approved by the board for energy production purposes; and

(2) spraying with chemicals, except as necessary to comply with noxious weed control laws, emergency pest control necessary to protect public health, or as needed to establish a productive planting as determined by the technical committee under subdivision 11.

(b) An easement is subject to the terms of the agreement provided in subdivision 6.

(c) Agricultural crop production and harvest are limited to native, perennial bioenergy crops. Harvest shall occur outside of bird nesting season.

(d) An easement must allow repairs, improvements, and inspections necessary to maintain public drainage systems provided the easement area is restored to the condition required by the terms of the easement.

(e) An easement may allow nonnative perennial prairie or pasture established by September 1, 2007, that meet the other objectives outlined in subdivision 7.

(f) An easement may allow grazing of livestock only if practiced under a plan, approved by the board, that protects water quality, wildlife habitat, and biodiversity.

Subd. 6. **Agreements by landowner.** The board may enroll eligible land in the reinvest in Minnesota clean energy program by signing an agreement in recordable form with a landowner in which the landowner agrees:

(1) to convey to the state an easement that is not subject to any prior title, lien, or encumbrance;

(2) to seed the land subject to the easement, as specified in the agreement, at seeding rates determined by the board, or carry out other long-term capital improvements approved by the board; and

(3) that the easement duration may be lengthened through mutual agreement with the board.

Subd. 7. **Payments for easements.** The board must develop a tiered payment system for easements partially based on the benefits of the bioenergy crop production for water quality, soil health, reduction in chemical inputs, soil carbon storage, biodiversity, and wildlife habitat using cash rent or a similar system as may be determined by the board. The payment system must provide that the highest per-acre payment is for diverse native prairie and perennials.

Subd. 8. **Easement renewal.** When an easement of limited duration expires, a new easement and agreement for an additional period of not less than 20 years may be acquired by agreement of the board and the landowner under the terms of this section. The board may adjust payment rates as a result of renewing an agreement and easement only after examining the condition of the established plantings, conservation practices, and land values.

Subd. 9. **Correcting boundary lines.** To correct errors in legal descriptions for easements that affect the ownership interest in the state and adjacent landowners, the board may, in the name of the state, with the approval of the attorney general, convey, without consideration, interests of the state necessary to correct legal descriptions of boundaries. The conveyance must be by quitclaim deed or release in a form approved by the attorney general.

Subd. 10. **Enforcement and damages.** (a) A landowner who violates the term of an easement or agreement under this section, or induces, assists, or allows another to do so, is liable to the state for treble damages if the trespass is willful, but liable for double damages only if the trespass is not willful. The amount of damages is the amount needed to make the state whole or the amount the landowner has gained due to the violation, whichever is greater.

(b) Upon the request of the board, the attorney general may commence an action for specific performances, injunctive relief, damages, including attorney fees, and any other appropriate relief to enforce this section in district court in the county where all or part of the violation is alleged to have been committed, or where the landowner resides or has a principal place of business.

Subd. 11. MS 2012 [Repealed, 2014 c 286 art 2 s 4]

History: *2007 c 57 art 1 s 119; 2014 c 286 art 2 s 2*

103F.519 REINVEST IN MINNESOTA WORKING LANDS PROGRAM.

Subdivision 1. **Establishment.** The board may establish and administer a reinvest in Minnesota working lands program that is in addition to the program established under section 103F.515. Selecting land for the program must be based on the land's potential for:

(1) protecting or improving water quality;

(2) reducing erosion;

(3) improving soil health;

(4) reducing chemical inputs;

(5) improving carbon storage; and

(6) increasing biodiversity and habitat for fish, wildlife, and native plants.

Subd. 2. **Applicability.** Section 103F.515 applies to this section except as otherwise provided in subdivisions 1, 3, and 4.

Subd. 3. **Nature of property rights acquired.** Notwithstanding section 103F.515, subdivision 4, paragraph (a), the board may authorize managed haying and managed livestock grazing, perennial or winter annual cover crop production, forest management, or other activities that the board determines are consistent with section 103F.505 or appropriation conditions or criteria.

Subd. 4. **Payments for easements.** The board must establish payment rates for acquiring easements and for related practices. The board must consider market factors as well as easement terms, including length and allowable uses, when establishing rates.

History: *2023 c 60 art 5 s 19*

103F.521 COOPERATION.

Subdivision 1. **Cooperation.** In implementing sections 103F.505 to 103F.531, the board must share information and cooperate with the Department of Agriculture, the Department of Natural Resources, the Pollution Control Agency, the United States Fish and Wildlife Service, the United States Department of Agriculture, the Minnesota Extension Service, the University of Minnesota, county boards, soil and water conservation districts, watershed districts, and interested private organizations and individuals.

Subd. 2. MS 2008 [Repealed, 2009 c 172 art 2 s 32; 2009 c 176 art 1 s 52]

History: *1990 c 391 art 6 s 74; 2009 c 172 art 2 s 21; 2009 c 176 art 1 s 40*

103F.525 SUPPLEMENTAL PAYMENTS ON FEDERAL AND STATE CONSERVATION PROGRAMS.

The board may supplement payments made under federal land retirement programs to the extent of available appropriations. The supplemental payments must be used to establish perennial cover on land enrolled or increase payments for land enrollment in programs approved by the board.

History: *1990 c 391 art 6 s 75; 2009 c 172 art 2 s 22; 2009 c 176 art 1 s 41*

103F.526 FOOD PLOTS.

The board may authorize wildlife food plots on land enrolled in a conservation easement under section 103F.515.

History: *1990 c 391 art 6 s 76; 2009 c 172 art 2 s 23; 2009 c 176 art 1 s 42*

103F.527 CONSERVATION PRACTICES.

Subdivision 1. **Approved practices.** An approved practice must be consistent with section 103F.505. The landowner is responsible for establishing all approved practices on the easement area as specified by the board.

Subd. 2. **Approved practices eligible for reimbursement.** The board must determine which approved practices are eligible for payments or reimbursement under a conservation easement program. Food plots are not eligible for payments or reimbursement under a conservation easement program.

Subd. 3. **Money from other sources.** The board may augment money available to pay for or reimburse approved practices with money from other agencies, organizations, or individuals.

History: *2024 c 90 art 3 s 72*

103F.528 SOIL AND WATER CONSERVATION DISTRICT RESPONSIBILITIES.

Subdivision 1. **Program delegation.** With the consent of the Board of Water and Soil Resources, a district may enter into an agreement with others, as authorized under section 103C.231, to delegate, in whole or in part, the responsibility for administering a conservation easement program.

Subd. 2. **Land in more than one district.** If an application involves land in more than one district, the districts or delegated parties may jointly agree for one of the districts or delegated parties to be the responsible party to review and prioritize the application and complete all tasks necessary to convey the conservation easement to the Board of Water and Soil Resources.

Subd. 3. **Violations and enforcement.** The district may take measures that are necessary to ensure landowner compliance with the conservation agreement, conservation easement, and conservation plan. If the district is unsuccessful in obtaining landowner compliance, the district must notify the Board of Water and Soil Resources of the violation and may recommend appropriate measures to be taken to correct the violation.

History: *2024 c 90 art 3 s 73*

103F.531 RULEMAKING.

The board may adopt rules or policy to implement sections 103F.505 to 103F.531.

History: *1990 c 391 art 6 s 77; 2009 c 172 art 2 s 24; 2009 c 176 art 1 s 43*

103F.535 RESERVATION OF MARGINAL LAND AND WETLANDS.

Subdivision 1. **Reservation of marginal land and wetlands.** (a) Marginal land and wetlands are withdrawn from sale or exchange unless:

(1) notice of the existence of the nonforested marginal land or wetlands, in a form prescribed by the Board of Water and Soil Resources, is provided to prospective purchasers; and

(2) the deed contains a restrictive covenant, in a form prescribed by the Board of Water and Soil Resources, that precludes enrollment of the land in a state-funded program providing compensation for conservation of marginal land or wetlands.

(b) This section does not apply to transfers of land by the Board of Water and Soil Resources to correct errors in legal descriptions under section 103F.515, subdivision 8, or to transfers by the commissioner of natural resources for:

(1) land that is currently in nonagricultural commercial use if a restrictive covenant would interfere with the commercial use;

(2) land in platted subdivisions;

(3) conveyances of land to correct errors in legal descriptions under section 84.0273;

(4) exchanges of nonagricultural land with the federal government, or exchanges of class A, class B, and riparian nonagricultural land with local units of government under sections 94.342, 94.343, and 94.344;

(5) land transferred to political subdivisions for public purposes under sections 84.027, subdivision 10, and 94.10; and

(6) land not needed for trail purposes that is sold to adjacent property owners and lease holders under section 85.015, subdivision 1, paragraph (b).

(c) This section does not apply to transfers of land by the commissioner of administration or transportation or by the Minnesota Housing Finance Agency, or to transfers of tax-forfeited land under chapter 282 if:

(1) the land is in platted subdivisions; or

(2) the conveyance is a transfer to correct errors in legal descriptions.

(d) This section does not apply to transfers of land by the commissioner of administration or by the Minnesota Housing Finance Agency for:

(1) land that is currently in nonagricultural commercial use if a restrictive covenant would interfere with the commercial use; or

(2) land transferred to political subdivisions for public purposes under sections 84.027, subdivision 10, and 94.10.

Subd. 2. MS 1990 [Repealed, 1992 c 502 s 7; 1992 c 561 s 10]

Subd. 3. MS 1990 [Repealed, 1992 c 502 s 7; 1992 c 561 s 10]

Subd. 4. MS 1990 [Repealed, 1992 c 561 s 10]

Subd. 5. **Altering conservation easements.** (a) Conservation easements may be altered, released, or terminated by the board after consultation with the commissioners of agriculture and natural resources. The board may alter, release, or terminate a conservation easement only if the board determines that the public interest and general welfare are better served by the alteration, release, or termination.

(b) The board may adopt policies and procedures to implement this subdivision, including provisions to ensure at least equal resource value as a condition of approving a request to alter, release, or terminate a conservation easement.

(c) The landowner must compensate the board for damages and loss of benefits to the conservation easement that result from the alteration, release, or termination. The board may require the landowner to reimburse the board's administrative expenses and costs incurred in altering, releasing, or terminating a conservation easement.

History: *1990 c 391 art 6 s 78; 1990 c 473 s 1,2; 1990 c 572 s 13; 1991 c 214 s 5; 1992 c 502 s 1; 1992 c 561 s 1,9; 1Sp2005 c 1 art 2 s 119; 2009 c 172 art 2 s 25; 2009 c 176 art 1 s 44; 2024 c 90 art 3 s 74*

WATER BANK PROGRAM

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*

WETLAND PRESERVATION AREAS

103F.612 WETLAND PRESERVATION AREAS.

Subdivision 1. **Definition.** For purposes of sections 103F.612 to 103F.616, "wetland" has the meaning given in section 103G.005, subdivision 19.

Subd. 2. **Application.** (a) A wetland owner may apply to the county where a wetland is located for designation of a wetland preservation area in a high priority wetland area designated by the Board of Water and Soil Resources, if the county chooses to accept wetland preservation area applications. The application must be made on forms provided by the board. If a wetland is located in more than one county, the application must be submitted to the county where the majority of the wetland is located.

(b) The application shall be executed and acknowledged in the manner required by law to execute and acknowledge a deed and must contain at least the following information and other information the Board of Water and Soil Resources requires:

(1) legal description of the area to be approved, which must include an upland strip at least 16-1/2 feet in width around the perimeter of wetlands within the area and may include total upland area of up to four acres for each acre of wetland;

(2) parcel identification numbers where designated by the county auditor;

(3) name and address of the owner;

(4) a statement by the owner covenanting that the land will be preserved as a wetland and will only be used in accordance with conditions prescribed by the Board of Water and Soil Resources and providing that the restrictive covenant will be binding on the owner and the owner's successors or assigns, and will run with the land.

(c) The upland strip required in paragraph (b), clause (1), must be planted with permanent vegetation other than a noxious weed.

Subd. 3. **Review and notice.** Upon receipt of an application, the county shall determine if all material required by subdivision 2 has been submitted and, if so, shall determine that the application is complete. The term "date of application" means the date the application is determined to be complete by the county. The county shall send a copy of the application to the county assessor, the Board of Water and Soil Resources, and the soil and water conservation district where the land is located. The soil and water conservation district shall prepare an advisory statement of existing and potential preservation problems or conflicts and send the statement to the owner of record and to the county. The county shall notify the landowner of the acceptance or denial of the application within 60 days from the date of the application.

Subd. 4. **Recording.** Within five days of the date of application, the county shall forward the application to the county recorder for recording or to the registrar of titles for filing if the land is registered. The county recorder shall record the application containing the restrictive covenant and return it to the applicant. If the land is registered, the registrar of titles shall memorialize the application containing the restrictive covenant upon the certificate of title. The recorder or registrar of titles shall notify the county that the application has been recorded or memorialized.

Subd. 5. **Date of status as wetland preservation area.** The wetland is a wetland preservation area commencing 30 days from the date the county notifies the landowner of acceptance of the application under subdivision 3.

Subd. 6. **Fee.** The county may require an application fee to defray administrative costs of the program.

Subd. 7. **Maps.** The county shall maintain wetland preservation area maps illustrating land covenanted as wetland preservation areas.

Subd. 8. **Authority of watershed management organization.** A watershed management organization with an approved watershed management plan under section 103B.231 has the same authority as a county to receive and act on applications under sections 103F.612 to 103F.616.

History: *1991 c 354 art 4 s 1; 1996 c 462 s 5-9; 1999 c 11 art 1 s 4,5; 2001 c 146 s 4; 1Sp2015 c 4 art 4 s 80*

103F.613 DURATION OF WETLAND PRESERVATION AREA.

Subdivision 1. **General.** A wetland preservation area continues in existence until the owner initiates expiration as provided in this section. The date of expiration must be at least eight years from the date of notice under this section.

Subd. 2. **Termination by owner.** The owner may initiate expiration of a wetland preservation area by notifying the county on a form prepared by the Board of Water and Soil Resources and made available in each county. The notice must describe the property involved and must state the date of expiration. The notice may be rescinded by the owner during the first two years following notice.

Subd. 3. **Notice and recording; termination.** When the county receives notice under subdivision 2, the county shall forward the original notice to the county recorder for recording or to the registrar of titles for filing if the land is registered and shall notify the regional development commission, where applicable, the Board of Water and Soil Resources, and the county soil and water conservation district of the date of expiration. The benefits and limitations of the wetland preservation area and the restrictive covenant filed with the application cease on the date of expiration. If the land is registered, the registrar of titles shall cancel the memorial of the application containing the restrictive covenant upon the certificate of title on the effective date of the expiration.

Subd. 4. **Early expiration.** A wetland preservation area may be terminated earlier than as provided in this section only in the event of a public emergency upon petition from the owner or county to the governor. The determination of a public emergency must be made by the governor through executive order under section 4.035 and chapter 12. The executive order must identify the wetland preservation area, the reasons requiring the action, and the date of expiration.

History: *1991 c 354 art 4 s 2; 1999 c 11 art 1 s 6*

103F.614 EMINENT DOMAIN ACTIONS.

Subdivision 1. **Applicability.** An agency of the state, a public benefit corporation, a local government, or any other entity with the power of eminent domain under chapter 117, except a public utility as defined in section 216B.02, a municipal electric or gas utility, a municipal power agency, a cooperative electric association organized under chapter 308A, or a pipeline operating under the authority of the Natural Gas Act, United States Code, title 15, sections 717 to 717z, shall follow the procedures in this section before:

(1) acquiring land or an easement in land with a total area over ten acres within a wetland preservation area; or

(2) advancing a grant, loan, interest subsidy, or other funds for the construction of dwellings, commercial or industrial facilities, or water or sewer facilities that could be used to serve structures in areas that are not for agricultural use, that require an acquisition of land or an easement in a wetland preservation area.

Subd. 2. **Notice of intent.** At least 60 days before an action described in subdivision 1, notice of intent must be filed with the Environmental Quality Board containing information and in the manner and form required by the Environmental Quality Board. The notice of intent must contain a report justifying the proposed action, including an evaluation of alternatives that would not affect land within a wetland preservation area.

Subd. 3. **Review and order.** The Environmental Quality Board, in consultation with affected local governments, shall review the proposed action to determine its effect on the preservation and enhancement of wetlands and the relationship to local and regional comprehensive plans. If the Environmental Quality Board finds that the proposed action might have an unreasonable effect on a wetland preservation area, the Environmental Quality Board shall issue an order within the 60-day period under subdivision 2 for the party to refrain from the proposed action for an additional 60 days.

Subd. 4. **Public hearing.** During the additional 60 days, the Environmental Quality Board shall hold a public hearing concerning the proposed action at a place within the affected wetland preservation area or easily accessible to the wetland preservation area. Notice of the hearing must be published in a newspaper having a general circulation within the area. Individual written notice must be given to the local governments with jurisdiction over the wetland preservation area, the agency, corporation or government proposing to

take the action, the owner of land in the wetland preservation area, and any public agency having the power of review or approval of the action.

Subd. 5. **Joint review.** The review process required in this section may be conducted jointly with any other environmental impact review by the Environmental Quality Board.

Subd. 6. **Suspension.** The Environmental Quality Board may suspend an eminent domain action for up to one year if it determines that the action is contrary to wetland preservation and that there are feasible and prudent alternatives that may have a less negative impact on the wetland preservation area.

Subd. 7. **Wetland preservation area terminates.** The benefits and limitations of a wetland preservation area, including the restrictive covenant for the portion of the wetland preservation area taken, end on the date title and possession of the property is obtained.

Subd. 8. **Action by attorney general.** The Environmental Quality Board may request the attorney general to bring an action to enjoin an agency, corporation, or government from violating this section.

Subd. 9. **Exception.** This section does not apply to an emergency project that is immediately necessary for the protection of life and property.

History: *1991 c 354 art 4 s 3*

103F.615 LIMITATION ON CERTAIN PUBLIC PROJECTS.

Subdivision 1. **Projects and assessments prohibited.** Notwithstanding any other law, construction projects for public sanitary sewer systems, public water systems, and new public drainage systems are prohibited in wetland preservation areas. New connections between land or buildings in a wetland preservation area and public projects are prohibited. Land in a wetland preservation area may not be assessed for public projects built in the vicinity of the wetland preservation area.

Subd. 2. **Exception; owner option.** Subdivision 1 does not apply to public projects if the owner of the wetland preservation area elects to use and benefit from a public project.

History: *1991 c 354 art 4 s 4*

103F.616 SOIL CONSERVATION PRACTICES.

An owner of a wetland preservation area shall manage the area and surrounding upland areas with sound soil conservation practices that prevent excessive soil loss according to the model ordinance adopted by the Board of Water and Soil Resources. The model ordinance and soil loss provisions under sections 103F.401 to 103F.455 relating to soil loss apply to all upland areas within a wetland preservation area and to surrounding upland areas. A sound soil conservation practice prevents excessive soil loss or reduces soil loss to the most practicable extent.

History: *1991 c 354 art 4 s 5*

CLEAN WATER PARTNERSHIP

103F.701 CITATION.

Sections 103F.701 to 103F.755 may be cited as the "Clean Water Partnership Law."

History: *1990 c 391 art 6 s 80; 2011 c 107 s 107*

103F.705 PURPOSE.

It is the purpose of the legislature in enacting sections 103F.701 to 103F.755 to protect, enhance, and restore surface water and groundwater in the state, through financial and technical assistance to local units of government to prevent water pollution, including that associated with land use and land management activities, and to provide a legal basis for state implementation of federal laws controlling nonpoint source water pollution.

History: *1990 c 391 art 6 s 81; 2011 c 107 s 53; 2023 c 25 s 25*

103F.711 DEFINITIONS.

Subdivision 1. **Applicability.** The definitions in this section apply to sections 103F.701 to 103F.755.

Subd. 2. **Agency.** "Agency" means the Pollution Control Agency.

Subd. 3. **Best management practices.** "Best management practices" means practices, techniques, and measures, that prevent or reduce water pollution from nonpoint sources by using the most effective and practicable means of achieving water quality goals. Best management practices include, but are not limited to, official controls, structural and nonstructural controls, and operation and maintenance procedures.

Subd. 4. **Commissioner.** "Commissioner" means the commissioner of the Pollution Control Agency.

Subd. 5. **Local unit of government.** "Local unit of government" means a statutory or home rule charter city, town, county, soil and water conservation district, watershed district, an organization formed for the joint exercise of powers under section 471.59, and any other special purpose district or authority exercising authority in water and related land resources management at the local level.

Subd. 6. **Nonpoint source.** "Nonpoint source" is a land management activity or land use activity that contributes or may contribute to groundwater and surface water pollution as a result of runoff, seepage, or percolation and that is not defined as a point source in section 115.01, subdivision 11. Nonpoint sources include rural and urban land management activities and land use activities and specialty land use activities such as transportation.

Subd. 7. MS 2010 [Repealed, 2011 c 107 s 108]

Subd. 8. **Project.** "Project" means the identification of water pollution and its causes, a plan to prevent water pollution or protect and improve water quality, and the measures taken to prevent water pollution or protect and improve water quality.

Subd. 9. **Water pollution.** "Water pollution" means water pollution as defined in section 115.01, subdivision 13.

Subd. 10. **Waters of the state.** "Waters of the state" means waters as defined in section 115.01, subdivision 22.

History: *1990 c 391 art 6 s 82; 2011 c 107 s 54,107; 2023 c 25 s 26*

103F.715 CLEAN WATER PARTNERSHIP PROGRAM ESTABLISHED.

A clean water partnership program is established as provided in sections 103F.701 to 103F.755. The agency shall administer the program in accordance with these sections. The agency shall provide financial and technical assistance in accordance with section 103F.725 to local units of government for projects in

geographical areas that contribute to surface water or groundwater flows. The projects shall provide for protection, enhancement, or restoration of surface water and groundwater.

History: *1990 c 391 art 6 s 83; 2011 c 107 s 55; 2023 c 25 s 27*

103F.721 MS 2010 [Repealed, 2011 c 107 s 108]

103F.725 FINANCIAL AND TECHNICAL ASSISTANCE.

Subdivision 1. **Grants.** (a) The agency may award grants for up to 50 percent of the eligible cost for projects.

(b) The agency shall determine which costs are eligible costs and grants shall be made and used only for eligible costs.

Subd. 1a. **Loans.** (a) Up to $50,000,000 of the balance in the clean water revolving fund in section 446A.07, as determined by the Public Facilities Authority, may be provided to the commissioner for a clean water partnership loan program.

(b) The agency may award loans for up to 100 percent of the costs associated with activities identified by the agency as best management practices pursuant to section 319 and section 320 of the federal Water Quality Act of 1987, as amended, including associated administrative costs.

(c) Loans may be used to finance clean water partnership grant project eligible costs not funded by grant assistance.

(d) The interest rate, at or below market rate, and the term, not to exceed 20 years, shall be determined by the agency in consultation with the Public Facilities Authority.

(e) The repayment must be deposited in the clean water revolving fund under section 446A.07.

(f) The local unit of government receiving the loan is responsible for repayment of the loan.

(g) For the purpose of obtaining a loan from the agency, a local government unit may provide to the agency its general obligation note. All obligations incurred by a local government unit in obtaining a loan from the agency must be in accordance with chapter 475, except that so long as the obligations are issued to evidence a loan from the agency to the local government unit, an election is not required to authorize the obligations issued, and the amount of the obligations shall not be included in determining the net indebtedness of the local government unit under the provisions of any law or chapter limiting the indebtedness.

Subd. 2. **Technical assistance.** The agency may provide technical assistance to local units of government to ensure efficient and effective development and implementation of projects and coordination of projects with other water management activities.

History: *1990 c 391 art 6 s 85; 1994 c 632 art 2 s 27; 1995 c 220 s 93; 1996 c 407 s 44; 1998 c 404 s 36; 2008 c 277 art 3 s 2; 2011 c 107 s 56,57*

103F.731 ELIGIBILITY FOR ASSISTANCE.

Subdivision 1. MS 2010 [Repealed, 2011 c 107 s 108]

Subd. 2. **Eligibility; documents required.** (a) Local units of government are eligible to apply for assistance. An applicant for assistance shall submit:

(1) a project proposal form as prescribed by the agency; and

(2) evidence that the applicant has consulted with the involved local soil and water conservation districts and watershed districts, where they exist, in preparing the application.

(b) The proposed project must be identified in at least one of the following documents:

(1) the comprehensive water plan authorized under sections 103B.301 to 103B.355;

(2) a surface water management plan required under section 103B.231;

(3) an overall plan required under chapter 103D;

(4) any other local plan that provides an inventory of existing physical and hydrologic information on the area, a general identification of water quality problems and goals, and that demonstrates a local commitment to water quality protection, enhancement, or restoration;

(5) an approved total maximum daily load (TMDL) or a TMDL implementation plan; or

(6) a watershed protection and restoration strategy implementation plan.

History: *1990 c 391 art 6 s 86; 2011 c 107 s 58*

103F.735 AGENCY REVIEW OF PROPOSALS.

Subdivision 1. **Ranking proposals.** The agency shall rank proposals for technical and financial assistance in order of priority and shall, within the limits of available appropriations, grant those proposals having the highest priority. The agency shall by rule adopt appropriate criteria to determine the priority of projects.

Subd. 2. **Criteria.** (a) The criteria shall give the highest priority to projects that best demonstrate compliance with the objectives in paragraphs (b) to (d).

(b) The project demonstrates participation, coordination, and cooperation between local units of government, other public agencies, and local stakeholders.

(c) The degree of water quality protection, enhancement, or restoration is maximized relative to the cost of implementing the best management practices.

(d) Best management practices provide a feasible means to abate or prevent nonpoint source water pollution.

History: *1990 c 391 art 6 s 87; 2011 c 107 s 59*

103F.741 PROJECT IMPLEMENTATION.

Subdivision 1. **Implementation according to law and contract.** A local unit of government receiving technical or financial assistance, or both, from the agency shall carry out the project approved by the agency according to the terms of the plan, the provisions of a contract or grant agreement made with the agency and according to sections 103F.701 to 103F.755, the rules of the agency, and applicable federal requirements.

Subd. 2. **Review by agency.** The commissioner or the commissioner's designee may, at any reasonable time, inspect any project and review the expenditure of financial assistance funds granted by the agency to determine whether the local unit of government has complied with subdivision 1.

Subd. 3. **Enforcing agreements.** The agency may bring a civil action in district court to recover from a local governmental unit any financial assistance funds used in violation of subdivision 1.

History: *1990 c 391 art 6 s 88; 2011 c 107 s 60*

103F.745 RULES.

(a) The agency shall adopt rules necessary to implement sections 103F.701 to 103F.755. The rules shall contain at a minimum:

(1) procedures to be followed by local units of government in applying for technical or financial assistance or both;

(2) conditions for the administration of assistance;

(3) requirements for a project;

(4) criteria for the evaluation and approval of a project;

(5) criteria for the ranking of projects in order of priority for assistance;

(6) criteria for defining and evaluating eligible costs and cost sharing by local units of government applying for assistance;

(7) requirements for providing measurable outcomes; and

(8) other matters as the agency and the commissioner find necessary for the proper administration of sections 103F.701 to 103F.755, including any rules determined by the commissioner to be necessary for the implementation of federal programs to protect, enhance, or restore water quality.

(b) For financial assistance by loan under section 103F.725, subdivision 1a, criteria established by rule shall guide requirements and administrative procedures for the clean water partnership loan program.

History: *1990 c 391 art 6 s 89; 1994 c 632 art 2 s 28; 2011 c 107 s 61*

103F.751 NONPOINT SOURCE POLLUTION; MANAGEMENT PLAN.

To coordinate the programs and activities used to control nonpoint sources of pollution to achieve the state's water quality goals, the agency shall develop a state plan for the control of nonpoint source water pollution to meet the requirements of the federal Clean Water Act, and, as appropriate, develop agreements with federal and state agencies to accomplish the purposes and objectives of the state nonpoint source pollution management plan.

History: *1990 c 391 art 6 s 90; 2011 c 107 s 62*

103F.755 AVAILABILITY OF DATA; STANDARDS.

The data collected for the activities of the clean water partnership program that have common value for natural resource planning must be made available using standards adopted by the Department of Information Technology Services and geospatial technology standards and guidelines published by the Minnesota Geospatial Information Office. Costs associated with this data delivery must be borne by this activity.

History: *1990 c 391 art 6 s 91; 2010 c 392 art 1 s 11; 2013 c 134 s 30; 2013 c 142 art 3 s 36; 2021 c 31 art 2 s 16*

103F.761 MS 2010 [Repealed, 2011 c 107 s 108]

LAKE PRESERVATION AND PROTECTION

103F.801 COUNTY LAKE IMPROVEMENT PROGRAM.

Subdivision 1. **Lake improvement program established.** To preserve and protect lakes and to increase and enhance the use and enjoyment of lakes, a statewide lake improvement program is established to:

(1) preserve the natural character of lakes and their shoreland environment as feasible and practical;

(2) improve the quality of water in lakes;

(3) provide for reasonable assurance of water quantity in lakes, where feasible and practicable; and

(4) assure protection of the lakes from the detrimental effects of human activities and certain natural processes.

Subd. 2. **Authority.** (a) A county board of a county has the authority given in this section with respect to bodies of water located entirely or partially within the boundaries of the county and not situated entirely within the boundaries of a single city or lake conservation district established by law.

(b) After approval by an affected city or lake conservation district, a county board may assume and exercise the authority given in this section with respect to bodies of water located entirely or partially within the city or lake conservation district.

(c) Programs undertaken pursuant to the authority given in this section must be consistent with the statewide water and related land resources plan prepared under the direction of the commissioner of natural resources and with regional water and related resources plans.

(d) A body of water may not be improved under this section unless the public has access to some portion of the shoreline of the body of water.

Subd. 3. **Powers.** The county boards shall have power to:

(1) acquire, in the name of the county, by gift or purchase or by condemnation under chapter 117, an existing dam or control works that may affect the level of waters;

(2) construct and operate water control structures if approved by the commissioner of natural resources under sections 103G.245 and 103G.405;

(3) undertake projects to change the course current or cross section of public waters if approved by the commissioner of natural resources under sections 103G.245 and 103G.405;

(4) improve navigation and to acquire by gift or purchase land, equipment, or other facilities to improve navigation;

(5) contract with a board of managers of a watershed district within the county or the board of supervisors of a soil and water conservation district within the county for improvements under chapters 103C and 103D;

(6) undertake research to determine the condition and development of the body of water and the water entering it and to transmit these studies to the Pollution Control Agency and other interested authorities;

(7) conduct a program of water improvement and conservation;

(8) develop and implement the comprehensive plan to eliminate water pollution, provided that construction of any water, sewer, or water and sewer system shall be undertaken in the manner provided by section 444.075 or other applicable laws and not under this section;

(9) receive financial assistance from and join in projects or enter into contracts with federal and state agencies for the study and treatment of related pollution problems and demonstration programs;

(10) maintain public beaches, public docks, and other public facilities for access to a body of water;

(11) make cooperative agreements with the United States or state government or another county or city to implement the provisions of this section; and

(12) require projects to change the course, current, or cross section of public waters within unincorporated areas to be approved by the county board before submitting an application for a permit to the commissioner as required by sections 103G.245 and 103G.405.

Subd. 4. **Funding.** (a) The county board may appropriate money from the general revenue fund of the county to implement this section and sections 103B.505 to 103B.581.

(b) The county board may apply for, receive, and disburse federal funds made available to the county by federal law or rules for any purpose related to the powers and duties of the county board. The county board shall comply with requirements of federal law to apply for, receive, and disburse the funds.

(c) The county board may accept any donations or grants from any public or private concern. The funds received by the county board must be deposited in the county treasury and appropriated for the purpose for which it was received.

Subd. 5. **Tax levies.** The county board may levy taxes to implement authority for water surface use regulation, lake improvement programs, and lake improvement districts on all taxable property within the county, which may be in addition to any amounts levied within a lake improvement district.

History: *1990 c 391 art 6 s 93*

103F.805 STATE AID FOR LAKE IMPROVEMENTS.

(a) The commissioner of natural resources, with the help of the Pollution Control Agency and the commissioner of employment and economic development, must:

(1) assess the need for particular kinds of lake improvements, including improvements related to high or low water levels and any other resource management considerations, except pollution problems; and

(2) develop criteria for allocating state aid funds among proposed projects.

(b) The assessment must include provisions to ensure that any federal program of aid to local lake improvement projects reduces the local share of project costs and not only the state's share.

History: *1990 c 391 art 6 s 94; 1Sp2003 c 4 s 1*

103F.806 [No local approval filed, 1992 c 536 s 1]

103F.807 [No local approval filed, 1992 c 536 s 2]

103F.808 [No local approval filed, 1992 c 536 s 3]

103F.809 [No local approval filed, 1992 c 536 s 4]

103F.810 [No local approval filed, 1992 c 536 s 5]

103F.811 [No local approval filed, 1992 c 536 s 6]

WETLAND ESTABLISHMENT AND RESTORATION PROGRAM

103F.901 DEFINITIONS.

Subdivision 1. **Applicability.** The definitions in this section apply to sections 103F.901 to 103F.905.

Subd. 2. **Board.** "Board" means the Board of Water and Soil Resources.

Subd. 3. **Commissioner.** "Commissioner" means the commissioner of natural resources.

Subd. 4. **Comprehensive local water plan.** "Comprehensive local water plan" has the meaning given in section 103B.3363, subdivision 3.

Subd. 5. **Local unit of government.** "Local unit of government" means a county board, joint county board, watershed management organization, or watershed district.

Subd. 6. **Watershed district.** "Watershed district" means a district established under chapter 103D.

Subd. 7. **Watershed management organization.** "Watershed management organization" has the meaning given in section 103B.205, subdivision 13.

Subd. 8. **Wetland.** "Wetland" has the meaning given in section 103G.005, subdivision 19.

History: *1991 c 354 art 5 s 1*

103F.902 LOCAL PLANNING AND APPROVAL.

Subdivision 1. **Application.** A willing landowner may apply, on forms provided by the board, to a local unit of government for the establishment or restoration of a wetland on property owned by the landowner in an area that is:

(1) designated by the board as a high priority wetland region; and

(2) identified as a high priority wetland area in the local unit of government's comprehensive local water plan.

Subd. 2. **Notice and preliminary hearing.** (a) Within 30 days after receiving an application, the local unit of government shall hold a public hearing. At least ten days before the hearing, the local unit of government shall give notice of the hearing to the applicant and publish notice in an official newspaper of general circulation in the county.

(b) At the hearing, the local unit of government shall describe the application and hear comments from interested persons regarding the application and the planned establishment or restoration project.

Subd. 3. **Preliminary approval.** Within 30 days of the public hearing, the local unit of government must give preliminary approval or disapproval of the application.

Subd. 4. **Survey report.** After preliminary approval, the local unit of government shall direct and pay the costs of a soil and water conservation engineer to conduct a survey of the property where the wetland

restoration or establishment project is proposed to be located. The engineer must file a report, including a map of the proposed wetland, that describes the effects of the proposed wetland on:

(1) the hydrology in the area;

(2) property of persons other than the applicant;

(3) groundwater recharge;

(4) flooding;

(5) fish and wildlife habitat;

(6) water quality; and

(7) other characteristics as determined by the local unit of government.

Subd. 5. **Notice and final hearing.** Within 30 days of receiving the completed survey, the local unit of government shall hold a public hearing on the proposed project. At least ten days before the hearing, the local unit of government shall notify the landowner and the commissioner and provide public notice of the hearing and the availability of the survey report in an official newspaper of general circulation in the county. The commissioner may provide comment on the proposed wetland.

Subd. 6. **Final local approval.** Within 30 days of the public hearing, the local unit of government shall notify the applicant and the commissioner of the final approval or disapproval of the proposed wetland.

History: *1991 c 354 art 5 s 2*

103F.903 WETLAND ESTABLISHMENT AND RESTORATION COST-SHARE PROGRAM.

Subdivision 1. **Application.** A local unit of government shall apply to the board to receive cost-share funding for a proposed wetland restoration project that receives final local approval under section 103F.902. The application must include a copy of the survey report and any comments received on the proposed wetland. Within 30 days of receiving an application, the board shall notify the local unit of government on whether the application and survey report are complete.

Subd. 2. **Cost share.** The board may provide up to the lesser of $20,000 or 50 percent of the cost of a wetland establishment or restoration project, including engineering costs, establishment or restoration costs, and compensation costs.

Subd. 3. **Conservation easement.** In exchange for cost-share financing under subdivision 2, the board shall acquire a permanent conservation easement, as defined in section 84C.01, paragraph (1). The easement agreement must contain the conditions listed in section 103F.515, subdivision 4.

Subd. 4. **Priorities.** In reviewing requests from local units of government under this section, the board must give priority to applications based on the public value of the proposed wetland. The public value of the wetland must include the value of the wetland for:

(1) water quality;

(2) flood protection;

(3) recreation including fish and wildlife habitat;

(4) groundwater recharge; and

(5) other public uses.

History: *1991 c 354 art 5 s 3*

103F.904 WETLAND ESTABLISHMENT.

Subdivision 1. **Establishment order.** After receiving approval of cost-share funding from the board, the local unit of government shall order the establishment or restoration of the wetland. The local unit of government shall pay all costs of establishing or restoring the wetland including the compensation required under subdivision 2.

Subd. 2. **Compensation.** In exchange for the permanent conservation easement on an established or restored wetland, the local unit of government shall pay the applicant the amount required under section 103F.515, subdivision 6, for a permanent conservation easement.

History: *1991 c 354 art 5 s 4*

103F.905 RULES.

The board may adopt rules to implement sections 103F.901 to 103F.904.

History: *1991 c 354 art 5 s 5*

103F.950 MS 2022 [Repealed, 2024 c 90 art 3 s 88]