

## MAWD Legislative Update

### March 29, 2016

The 2016 Legislative has been fast and furious. Even though it is pegged as being a “short session, that does not stop legislators from introducing bills and trying to pass them. Short sessions are the worst, because they move so fast and it is very difficult to keep track of all of the legislative activity.

This session there are three big bills in play .. The transportation funding bill, tax bill, and the bonding bill. Right now there is not agreement on any of these three bills, and because they are linked, until there is agreement on all three, it is doubtful there will be agreement on any of them.

MAWD’s priority legislative issues include clarifying language on the 2015 buffers legislation to enhance the implementation of the buffers law, and advocate for sufficient funds (\$20 million) for the Flood Hazard Mitigation Program (FHM) in the bonding bill to cover the needs for the Red River Valley and other watershed districts across the state.

In addition, we are advocating an additional \$500,000 for the Lac Qui Parle Yellow Bank WD (Area II) for an engineering study on two floodwater retention ponds. On the tax side we are advocating returning the effective date of local government sales tax exemption to January 1, 2016 from January 1, 2017.

**Buffers Legislation:** Rep. Torkelson on the House side and Senator Skoe on the Senate side have been working on a buffers clarifying bill with various stakeholders to try and make the buffer legislation workable. To that end the legislation (HF3000/SF2503) have gone through several delete all amendments in attempts to get agreement. The agencies did finally get the Governor’s blessing to work with us on finding acceptable clarifying language for all. Currently we are very close to getting that language and hopefully by the end of the first deadline (April 1), we will have attained that agreement. See the attached summary of bill as it stands at this point.

**Capital Investment:** Watershed districts throughout the state need to get at least \$18-20 million for the FHM program in order to get enough in the DNR flood program to cover all the pending ready to go statewide flood needs. These total dollars would be spread around the entire state to meet all ready to go flooding projects. We need the \$20 million in the fund so the program has the funding available to get down to all of our projects that are ready to go.

In addition, we are supporting the Governor’s request for \$30 million for BWSR as a match with the FSA for RIM and to implement a new CREP in Minnesota. The proposal covers the Red River Valley south of Hwy 10 and then south and east across the southern ag region.

We are also supporting the Governor’s recommendation of \$5 million for the Local Gov’t

Roads Wetlands Replacement Program.

**Area II Flood Retention:** The Laq Qui Parle Yellow Bank WD is requesting \$500,000 through the Area II Flood Retention program for an engineering study for two retention ponds. These funds are particularly important due to the nature of the topography and hydrology in that area of the state. The elevation from South Dakota into Minnesota is very dramatic and causes severe damage to the area.

**Sales Tax Exemption:** WDs were included in language last year that moved our pending sales tax exemption from January 1, 2016 till January 1, 2017. We need to advocate a return to the Jan 1, 2016 date. Legislation has been introduced by Sen. Ann Rest (SF2249) and Rep. Mike Freiberg (HF2387) to return to the 2016 date.

All of the legislation outlined above is still very much in play for the 2016 session.

Please share this MAWD Legislative Update with all of your managers, key staff, and partners. Thank you!

# HOUSE RESEARCH

## Bill Summary

**FILE NUMBER:** H.F. 3000

**DATE:** March 23, 2016

**Version:** Delete everything amendment (H3000DE1)

**Authors:** Torkelson

**Subject:** Buffers

**Analyst:** Janelle Taylor

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### Overview

This bill would make modifications to the buffer law passed last session that required permanent vegetative buffers or alternative water quality practices to be installed along certain waters and drainage ditches.

#### Section

- 1 **Authority to issue penalty orders.** Amends § 103B.101, subd. 12a. Defines “with jurisdiction” for purposes of the new administrative penalty order authority provided to counties and watershed districts for purposes of enforcing the new buffer requirements.
- 2 **Extent of damages.** Amends § 103E.315, subd. 8. Requires viewers and drainage authorities to consider land use prior to implementing buffer or alternative water quality practices when determining compensation for damages arising from their installation.
- 3 **Definitions.** Amends § 103F.48, subd. 1. Modifies the definition of “public waters” for purposes of the buffer requirements to mean public waters that appear on the Department of Natural Resources’ (DNR) public waters inventory, and “with jurisdiction” for purposes of the new buffer requirements.
- 4 **Water resources riparian protection requirements on public waters and public drainage systems.** Amends § 103F.48, subd. 3. Modifies the application of the 50 foot average buffer requirement to apply to public waters with a shoreland management classification.

Modifies the application of the 16.5 foot buffer requirement for drainage ditches by removing language referencing “ditches in the benefited area” to remove potential application to private ditches, specifies the types of buffer vegetation required and that the

**Section**

vegetation shall not impede ditch maintenance, and requires alternative riparian water quality practices allowable to include retention ponds and alternative measures that prevent overland flow to the water resource.

- 5 **Local water resources riparian protection.** Amends § 103F.48, subd. 4. Provides flexibility to local water management authorities when revising local plans to incorporate watercourses identified by soil water conservation districts as required under the buffer law.
- 6 **Corrective actions.** Amends § 103F.48, subd. 7. Allows counties and watershed districts to enforce the buffer requirements by rule or ordinance in addition to the administrative penalty order authority provided. Requires a soil and water conservation district to notify the Board of Water and Soil Resources (BWSR) of violations of the buffer requirements when a county or watershed district has not assumed jurisdiction for enforcing the requirements by adopting procedures for issuing administrative penalty orders.
- 7 **Funding subject to withholding.** Amends § 103F.48, subd. 8. Modifies a provision allowing the state to withhold funds from a local water management authority that fails to implement the buffer requirements to narrow its application to only BWSR and eliminates reference to specific programs subject to withholding.
- 8 **Landowner financial assistance and public drainage system procedure.** Amends § 103F.48, subd. 10. Removes the ability of a drainage authority to compensate landowners for installation of buffers or other water quality practices above the project cost limits applicable under the drainage law.
- 9 **Riparian protections; supplemental aid.** Adds § 477A.21. Establishes an aid program for counties to implement the buffer requirements and establishes a statutory appropriation to the commissioner of revenue from the general fund to provide the funding beginning with aids payable in 2018.

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# Senate

State of Minnesota

## S.F. No. 2503 - Delete-Everything Amendment - Buffer Requirements Modified

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**Prepared By:** Greg Knopff, Senate Analyst (651/296-9399) 

**Date:** March 15, 2016

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**Section 1 [Jurisdiction; administrative penalty orders]** defines "with jurisdiction" for the purposes of administrative penalty order authority for counties and watershed districts under the 2015 buffer law.

**Section 2 [Extent of damages; buffers acquired by a drainage authority]** clarifies in the drainage law how a drainage authority retroactively compensates a landowner for buffers or alternative practices that were installed to meet the requirements of the 2015 buffer law. The clarification directs a drainage authority to consider the land use prior to the buffer or alternative practice being installed in determining the fair market value of the land.

**Section 3 [Public waters clarification]** clarifies that the term "public water" when used in the 2015 buffer law applies to waters that are on the public waters inventory. The public waters inventory was conducted in the early 1980's to determine the waters of the state where the Department of Natural Resources (DNR) has regulatory authority. This section also clarifies the term "with jurisdiction" for the purposes of the buffer law.

**Section 4 [Buffer requirement clarification]** clarifies that the buffer requirement for public waters applies to those public waters with a shoreland classification. These are the same public waters that have a buffer requirement under DNR shoreland rules. This section also specifies:

1. the vegetation for the buffer requirement on public drainage systems;
2. that the drainage ditch requirement is on public drainage ditches only; and

3. that alternative water quality practices allowed in place of buffers include water retention ponds and other measures that prevent overland flow to a water resource.

**Section 5 [Local water plan update; additional watercourses]** gives local water management authorities flexibility in updating their local plans to include additional watercourses recommended by the local soil and water conservation district.

**Section 6 [Exemption for ditches with planned buffers]** exempts a drainage ditch from the buffer requirement when the ditch is part of a plan by the drainage authority to install buffers by December 31, 2025.

**Section 7 [Corrective actions; local processes]** allows counties and watershed districts to enforce the buffer requirements using local processes in lieu of administrative penalty orders. This section also clarifies that when a county or watershed district do not have jurisdiction, the soil and water conservation district must notify the Board of Water and Soil Resources of noncompliance.

**Section 8 [Funding subject to withholding]** specifies that the only money that may be withheld from local governments by the state for lack of buffer law implementation is money from the Board of Water and Soil Resources to implement the buffer law.

**Section 9 [Public drainage system procedure]** eliminates the ability of a drainage authority to compensate landowners for buffers beyond the project cost limits in the drainage law. This section also allows for retroactive repayment for ditch buffers acquired after a redetermination of benefits and makes a technical change related to the change on the drainage ditch requirement in section 4 of the bill.

**Section 10 [Riparian protection; supplemental aid]** establishes a local aid of \$100,000 to each county or watershed district that assumes jurisdiction under the 2015 buffer law. The aid payments are effective for aids payable in 2018 and thereafter.

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