MINNESOTA ASSOCIATION OF WATERSHED DISTRICTS, INC

Land and Water Shall be Preserved

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MAWD Legislative Update

April 20, 2016

Session has moved very quickly as deadlines have come and gone. The final deadline on Friday, April 21st will send all finance bills to both floors of the legislature. Very little has passed either body, and if bills passed, they were typically non-controversial and spend no money.

With all committee deadlines being met by Friday, the pace at the Capitol will slow to a snails pace. The "big three" are all still in play, with no resolution in sight for any one of them. The transportation funding bill, tax bill, and the bonding bill all appear to be going nowhere fast. Right now there is no agreement on any of these three bills, and because they continue to be linked, until there is agreement on all three, it is doubtful there will be agreement on any of them. And, worse yet, we are not hearing about any behind the scenes discussions taking place.

The House GOP Majority released their spending targets which included a $600 million target for the bonding bill. That compares to the $1.4 billion the governor has recommended, and who knows what the Senate will come up with (probably in the $1 billion range). That just gives you a taste of what they are up against in trying to wrap up the session in a month. Sen. Bakk has indicated for over a year that without a transportation funding bill, there will be no tax bill. And in the final analysis, there does not have to be a tax bill passed this year. Life will go on at all the same tax rates without a new bill.

Meanwhile, everyone keeps working hoping for the best to finally emerge.

Buffers Legislation: Rep. Torkelson on the House side and Senator Skoe on the Senate side have agreed to a bill that will go a long way to clarify the language of the original legislation (HF3000/SF2503). The pending legislation clarifies the public waters covered, jurisdictional issues, APO enforcement issues, local water plan updates, funding withholding, and public drainage issues. In addition, the Senate included language to provide local aids to local governments that accept jurisdiction (counties & watershed districts) for the enforcement provisions in the law. We are also working on a revolving fund concept which will allow drainage authorities to borrow from the fund to be able to move more quickly to implement the buffer law, and then repay the funds when a redetermination of benefits are completed on the ditch. The two funding issues are both being considered separately (taxes & capital investment committees) for inclusion in the two bills.

The local aids language was left behind in the tax committee when the bill passed through Senate taxes for consideration, and the revolving fund bill was introduced by Rep. Torkelson and Sen. Dziedzic (HF3734/SF3521). We are hopeful these two bills pass considering both bodies want the local units to do the enforcement rather than the state agencies and any added incentive to that end helps bring the local units on board.

Capital Investment: As we indicated in our last update, 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 WD 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 fund 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 sever damage to the area.

There has been no substantive action on any of the flood bills at this point. It continues to be a waiting game on overall spending targets for the bonding bill.

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.

We are continuing to pursue this legislation, but as money gets tighter we may need to be concerned with keeping the Jan. 1, 2017 effective date.

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
Version: First engrossment

DATE: April 13, 2016

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; generally.** Amends § 103B.101, subd. 12. Clarifies the administrative penalty order (APO) authority of the Board of Water and Soil Resources (BWSR) and allows APOs issued for violations of the new buffer law to be appealed under the same provisions BWSR's other APOs may be appealed.

2 **Authority to issue penalty orders; riparian protection requirements.** Amends § 103B.101, subd. 12a. Requires all proceeds collected from APOs issued for violations of the new buffer requirements to be remitted to the county or watershed district with jurisdiction over the noncompliant site or to BWSR. Requires BWSR to adopt a plan with the procedures for the board and local units of government for issuing APOs.

3 **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 on drainage ditches when determining compensation for damages arising from their installation.

4 **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.

Section

5 **Water resources riparian protection requirements on public waters and public drainage systems.** Amends § 103F.48, subd. 3. 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 that the buffers are required to meet the same requirements applicable under existing drainage law for drainage ditches required to have buffers currently, states that the buffer vegetation must 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. States that nothing in the section limits a landowner's eligibility for federal or state conservation programs.

6 **Local water resources riparian protection.** Amends § 103F.48, subd. 4. Requires local water management authorities to incorporate an addendum to their local water management plans to include watercourses identified by soil water conservation districts by July 1, 2018. Requires incorporation of the watercourses when the local water management authority revises its plan or develops a comprehensive watershed management plan.

7 **Corrective actions.** Amends § 103F.48, subd. 7. Requires a soil and water conservation district to notify BWSR of violations of the buffer requirements. Requires counties and watershed districts to affirm their jurisdiction for enforcement of the buffer requirements to BWSR by March 31, 2017. Allows counties or watershed districts to enforce the buffer requirements using the APO authority granted in the buffer law or by rule, ordinance, or other official control of the county. Requires counties using APO authority to adopt a plan for the use of APO authority consistent with the plan adopted by BWSR. Requires BWSR to enforce the requirements under the APO authority granted when a county or watershed district has failed to adopt a plan, rule, ordinance, or official control to do so.

8 **Funding subject to withholding.** Amends § 103F.48, subd. 8. Modifies a provision allowing the state to withhold funds from a local water management authority or soil and water conservation district that fails to implement the buffer requirements to narrow its application to only funds from BWSR and eliminates reference to specific programs subject to withholding.

9 **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.

Minnesota State Legislature

Minnesota House of Representatives

HF 3734 / SF 3521 as introduced - 89th Legislature (2015 - 2016) Posted on 03/31/2016 12:30pm

KEY: ~~stricken~~ = removed, old language. underscored = added, new language.

Version List Authors and Status

Rtf

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A bill for an act

relating to environment; authorizing drainage authorities to acquire property; creating a revolving loan fund to acquire property for riparian improvements; appropriating money; authorizing the sale and issuance of state bonds;amending Minnesota Statutes 2014, section 103E.011, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 103E.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2014, section 103E.011, is amended by adding a subdivision to read:

Subd. 6. **Acquiring property.** A drainage authority may acquire property and easements to property under section 103E.150.

Sec. 2. **[103E.150] RIPARIAN IMPROVEMENT REVOLVING LOAN PROGRAM.**

Subdivision 1. **Establishment of fund; loan program; property or easement acquisition by drainage authority.** The Board of Water and Soil Resources shall establish a riparian improvement revolving fund and may make interest-free loans from the fund to drainage authorities for eligible projects. Drainage authorities may use the loaned money to contract with and make payments to landowners to acquire property in fee simple for market value as determined by appraisal of a licensed appraiser or to acquire easements of at least 16.5 feet in width for a term of at least 20 years for an amount equal to the rate for 20-year easements established by the Board of Water and Soil Resources under section 103F.515.

Subd. 2. **Eligible projects.** An "eligible project" as used in this section means a project designated by a drainage authority to implement permanent buffer strips of perennial vegetation as provided in section 103E.021.

Subd. 3. **Loan repayment.** A drainage authority must repay a loan from the Board of Water and Soil Resources under this section within ten years. A drainage authority must apply amounts collected from assessments of benefits, as redetermined under section 103E.351, on the property improved by a loan under this section toward repayment of the loan. The Board of Water and Soil Resources must deposit loan payments made by a drainage authority into the revolving fund established in subdivision 1.

Sec. 3. **APPROPRIATION; BOND SALE AUTHORIZATION.**

Subdivision 1. **Appropriation.** $..... is appropriated from the bond proceeds fund to the Board of Water and Soil Resources for deposit into the riparian improvement revolving fund for eligible projects under Minnesota Statutes, section 103E.150, that are capital in nature.

Subd. 2. **Bond sale.** To provide the money appropriated in this act from the bond proceeds fund, the commissioner of management and budget shall sell and issue bonds of the state in an amount up to $..... in the manner, upon the terms, and with the effect prescribed by Minnesota Statutes, sections 16A.631 to 16A.675, and by the Minnesota Constitution, article XI, sections 4 to 7.

EFFECTIVE DATE. This section is effective the day following final enactment.