

SENATE
STATE OF MINNESOTA
EIGHTY-SEVENTH LEGISLATURE S.F. No. 1354

(SENATE AUTHORS: GAZELKA)

DATE	D-PG	OFFICIAL STATUS
05/02/2011	1607	Introduction and first reading Referred to Environment and Natural Resources
05/04/2011	1739a	Comm report: To pass as amended and re-refer to Finance

1.1 A bill for an act
 1.2 relating to environment; modifying Clean Water Partnership Law; amending
 1.3 Minnesota Statutes 2010, sections 17.117, subdivision 6a; 103F.705; 103F.711,
 1.4 subdivision 8; 103F.715; 103F.725, subdivisions 1, 1a; 103F.731, subdivision 2;
 1.5 103F.735; 103F.741, subdivision 1; 103F.745; 103F.751; repealing Minnesota
 1.6 Statutes 2010, sections 103F.711, subdivision 7; 103F.721; 103F.731, subdivision
 1.7 1; 103F.761.

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

1.9 Section 1. Minnesota Statutes 2010, section 17.117, subdivision 6a, is amended to read:

1.10 Subd. 6a. **Review and ranking of applications.** (a) The commissioner shall chair
 1.11 ~~the a~~ subcommittee ~~established in section 103F.761, subdivision 2, paragraph (b),~~ for
 1.12 purposes of reviewing and ranking applications and recommending to the commissioner
 1.13 allocation amounts. The subcommittee consists of representatives of the Departments of
 1.14 Agriculture, Natural Resources, and Health; the Pollution Control Agency; the Board
 1.15 of Water and Soil Resources; the Farm Service Agency and the Natural Resource
 1.16 Conservation Service of the United States Department of Agriculture; the Association of
 1.17 Minnesota Counties; the Minnesota Association of Soil and Water Conservation Districts;
 1.18 and other agencies or associations the commissioner determines are appropriate.

1.19 (b) The subcommittee must use the criteria in clauses (1) to (9) as well as other
 1.20 criteria it determines appropriate in carrying out the review and ranking:

1.21 (1) whether the proposed activities are identified in a comprehensive water
 1.22 management plan or other appropriate local planning documents as priorities;

1.23 (2) the potential that the proposed activities have for improving or protecting
 1.24 environmental quality;

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2.1 (3) the extent that the proposed activities support areawide or multijurisdictional
2.2 approaches to protecting environmental quality based on defined watershed or similar
2.3 geographic areas;

2.4 (4) whether the activities are needed for compliance with existing environmental
2.5 laws or rules;

2.6 (5) whether the proposed activities demonstrate participation, coordination, and
2.7 cooperation between local units of government and other public agencies;

2.8 (6) whether there is coordination with other public and private funding sources
2.9 and programs;

2.10 (7) whether the applicant has targeted specific best management practices to resolve
2.11 specific environmental problems;

2.12 (8) past performance of the applicant in completing projects identified in prior
2.13 applications and allocation agreements; and

2.14 (9) whether there are off-site public benefits.

2.15 Sec. 2. Minnesota Statutes 2010, section 103F.705, is amended to read:

2.16 **103F.705 PURPOSE.**

2.17 ~~(a)~~ It is the purpose of the legislature in enacting sections 103F.701 to ~~103F.761~~
2.18 103F.755 to protect and improve surface and ground water in the state, through financial
2.19 and technical assistance to local units of government to control water pollution, including
2.20 that associated with land use and land management activities; and

2.21 ~~(b) It is also the purpose of the legislature to:~~

2.22 ~~(1) identify water quality problems and their causes;~~

2.23 ~~(2) direct technical and financial resources to resolve water quality problems and to~~
2.24 ~~abate their causes;~~

2.25 ~~(3) provide technical and financial resources to local units of government for~~
2.26 ~~implementation of water quality protection and improvement projects;~~

2.27 ~~(4) coordinate a nonpoint source pollution control program with elements of the~~
2.28 ~~existing state water quality program and other existing resource management programs;~~
2.29 ~~and~~

2.30 ~~(5)~~ to provide a legal basis for state implementation of federal laws controlling
2.31 nonpoint source water pollution.

2.32 Sec. 3. Minnesota Statutes 2010, section 103F.711, subdivision 8, is amended to read:

2.33 Subd. 8. **Project.** "Project" means the ~~diagnostic study~~ identification of water
2.34 pollution ~~caused by nonpoint sources of water pollution~~ and its causes, a plan to ~~implement~~

3.1 ~~best management practices~~ protect and improve water quality, and the ~~physical features~~
3.2 ~~constructed or actions taken by a local unit of government to implement best management~~
3.3 ~~practices~~ measures taken to protect and improve water quality.

3.4 Sec. 4. Minnesota Statutes 2010, section 103F.715, is amended to read:

3.5 **103F.715 CLEAN WATER PARTNERSHIP PROGRAM ESTABLISHED.**

3.6 A clean water partnership program is established as provided in sections 103F.701 to
3.7 ~~103F.761~~ 103F.755. The agency shall administer the program in accordance with these
3.8 sections. ~~As a basis for the program, the agency and the Metropolitan Council shall~~
3.9 ~~conduct an assessment of waters in accordance with section 103F.721.~~ The agency shall
3.10 ~~then~~ provide financial and technical assistance in accordance with section 103F.725 to
3.11 local units of government for projects in geographical areas that contribute to surface or
3.12 ground water flows. The projects shall provide for protection and improvement of surface
3.13 and ground water from ~~nonpoint~~ sources of water pollution.

3.14 Sec. 5. Minnesota Statutes 2010, section 103F.725, subdivision 1, is amended to read:

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

3.17 ~~(1) the development of a diagnostic study and implementation plan; and~~

3.18 ~~(2) the implementation of that plan.~~

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

3.21 Sec. 6. Minnesota Statutes 2010, section 103F.725, subdivision 1a, is amended to read:

3.22 Subd. 1a. **Loans.** (a) Up to ~~\$36,000,000~~ \$50,000,000 of the balance in the clean
3.23 water revolving fund in section 446A.07, as determined by the Public Facilities Authority,
3.24 may be provided to the commissioner for ~~the establishment of~~ a clean water partnership
3.25 loan program.

3.26 (b) The agency may award loans for up to 100 percent of the costs associated with
3.27 activities identified by the agency as best management practices pursuant to section
3.28 319 and section 320 of the federal Water Quality Act of 1987, as amended, including
3.29 associated administrative costs.

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

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

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4.1 (e) The repayment must be deposited in the clean water revolving fund under section
4.2 446A.07.

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

4.5 (g) For the purpose of obtaining a loan from the agency, a local government unit
4.6 may provide to the agency its general obligation note. All obligations incurred by a local
4.7 government unit in obtaining a loan from the agency must be in accordance with chapter
4.8 475, except that so long as the obligations are issued to evidence a loan from the agency
4.9 to the local government unit, an election is not required to authorize the obligations
4.10 issued, and the amount of the obligations shall not be included in determining the net
4.11 indebtedness of the local government unit under the provisions of any law or chapter
4.12 limiting the indebtedness.

4.13 Sec. 7. Minnesota Statutes 2010, section 103F.731, subdivision 2, is amended to read:

4.14 Subd. 2. **Eligibility; documents required.** ~~(a) Local units of government are~~
4.15 ~~eligible to apply for assistance.~~ An applicant for assistance shall submit ~~the following~~
4.16 ~~to the agency:~~

4.17 ~~(1) an application a project proposal form as prescribed by the agency;~~

4.18 ~~(2) evidence that the applicant has consulted with the local soil and water~~
4.19 ~~conservation districts and watershed districts, where they exist, in preparing the~~
4.20 ~~application; and~~

4.21 ~~(3) The proposed project must be identified in at least one of the following~~
4.22 ~~documents:~~

4.23 ~~(i) (1) the comprehensive water plan authorized under sections 103B.301 to~~
4.24 ~~103B.355;~~

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

4.26 ~~(iii) (3) an overall plan required under chapter 103D; or~~

4.27 ~~(iv) (4) any other local plan that provides an inventory of existing physical and~~
4.28 ~~hydrologic information on the area, a general identification of water quality problems~~
4.29 ~~and goals, and that demonstrates a local commitment to water quality protection or~~
4.30 ~~improvement;~~

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

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

4.33 ~~(b) After July 1, 1991, only projects that are a part of, or are responsive to, a local~~
4.34 ~~water plan under the Comprehensive Local Water Management Act, chapter 103D, or~~
4.35 ~~sections 103B.211 to 103B.255, will be eligible under paragraph (a), clause (3).~~

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5.1 ~~(e) The document submitted in compliance with paragraph (a), clause (2), must~~
5.2 ~~identify existing and potential nonpoint source water pollution problems and must~~
5.3 ~~recognize the need and demonstrate the applicant's commitment to abate or prevent water~~
5.4 ~~pollution from nonpoint sources in the geographic areas for which the application is~~
5.5 ~~submitted.~~

5.6 Sec. 8. Minnesota Statutes 2010, section 103F.735, is amended to read:

5.7 **103F.735 AGENCY REVIEW OF APPLICATIONS PROPOSALS.**

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

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

5.15 (b) The project demonstrates participation, coordination, and cooperation between
5.16 local units of government ~~and~~₂ other public agencies, ~~including soil and water conservation~~
5.17 ~~districts or watershed districts, or both those districts~~ and local stakeholders.

5.18 (c) The degree of water quality improvement or protection is maximized relative to
5.19 the cost of implementing the best management practices.

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

5.22 ~~(e) The project goals and objectives are consistent with the state water quality~~
5.23 ~~management plans, the statewide resource assessment conducted under section 103F.721,~~
5.24 ~~and other applicable state and local resource management programs.~~

5.25 Sec. 9. Minnesota Statutes 2010, section 103F.741, subdivision 1, is amended to read:

5.26 Subdivision 1. **Implementation according to law and contract.** A local unit
5.27 of government receiving technical or financial assistance₂ or both₂ from the agency
5.28 shall carry out the ~~implementation plan~~ project approved by the agency according to the
5.29 terms of the plan, the provisions of a contract or grant agreement made with the agency
5.30 and according to sections 103F.701 to ~~103F.761~~ 103F.755, the rules of the agency, and
5.31 applicable federal requirements.

5.32 Sec. 10. Minnesota Statutes 2010, section 103F.745, is amended to read:

5.33 **103F.745 RULES.**

6.1 (a) The agency shall adopt rules necessary to implement sections 103F.701 to
6.2 ~~103F.761~~ 103F.755. The rules shall contain at a minimum:

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

6.5 (2) conditions for the administration of assistance;

6.6 (3) ~~procedures for the development, evaluation, and implementation of best~~
6.7 ~~management practices~~ requirements for a project;

6.8 (4) ~~requirements for a diagnostic study and implementation plan~~ criteria for the
6.9 evaluation and approval of a project;

6.10 (5) ~~criteria for the evaluation and approval of a diagnostic study and implementation~~
6.11 ~~plan~~;

6.12 ~~(6) criteria for the evaluation of best management practices~~;

6.13 ~~(7) criteria for the ranking of projects in order of priority for assistance~~;

6.14 ~~(8)~~ (6) criteria for defining and evaluating eligible costs and cost-sharing by local
6.15 units of government applying for assistance; and

6.16 ~~(9)~~ (7) other matters as the agency and the commissioner find necessary for the
6.17 proper administration of sections 103F.701 to ~~103F.761~~ 103F.755, including any rules
6.18 determined by the commissioner to be necessary for the implementation of federal
6.19 programs to ~~control nonpoint source water pollution~~ protect and improve water quality.

6.20 (b) For financial assistance by loan under section 103F.725, subdivision 1a, criteria
6.21 established by rule ~~for the clean water partnership grants program~~ shall guide requirements
6.22 and administrative procedures ~~for the loan program until January 1, 1996, or the effective~~
6.23 ~~date of the administrative rules for the clean water partnership loan program, whichever~~
6.24 ~~occurs first.~~

6.25 Sec. 11. Minnesota Statutes 2010, section 103F.751, is amended to read:

6.26 **103F.751 NONPOINT SOURCE POLLUTION ~~CONTROL~~ MANAGEMENT**
6.27 **PLAN AND PROGRAM EVALUATION.**

6.28 To coordinate the programs and activities used to control nonpoint sources of
6.29 pollution to achieve the state's water quality goals, the agency shall:

6.30 ~~(1)~~ develop a state plan for the control of nonpoint source water pollution to meet
6.31 the requirements of the federal Clean Water Act, and,

6.32 ~~(2) work through the Environmental Quality Board to coordinate the activities~~
6.33 ~~and programs of federal, state, and local agencies involved in nonpoint source pollution~~
6.34 ~~control and~~, as appropriate, develop agreements with federal and state agencies to

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7.1 accomplish the purposes and objectives of the state nonpoint source pollution ~~control~~
7.2 management plan; and.

7.3 ~~(3) evaluate the effectiveness of programs in achieving water quality goals~~
7.4 ~~and recommend to the legislature, under section 3.195, subdivision 1, any necessary~~
7.5 ~~amendments to sections 103F.701 to 103F.761.~~

7.6 Sec. 12. **REVISOR'S INSTRUCTION.**

7.7 The revisor of statutes shall change the range reference "sections 103F.701 to
7.8 103F.761" wherever it appears in Minnesota Statutes and Minnesota Rules to "sections
7.9 103F.701 to 103F.755."

7.10 Sec. 13. **REPEALER.**

7.11 Minnesota Statutes 2010, sections 103F.711, subdivision 7; 103F.721; 103F.731,
7.12 subdivision 1; and 103F.761, are repealed.