

SENATE
STATE OF MINNESOTA
EIGHTY-NINTH SESSION

S.F. No. 1537

(SENATE AUTHORS: MARTY and Scalze)

DATE	D-PG	OFFICIAL STATUS
03/09/2015	613	Introduction and first reading Referred to Environment and Energy
03/16/2015	822	Comm report: To pass and re-referred to Jobs, Agriculture and Rural Development
	910	Author added Scalze See HF846, Art. 4, Sec. 77 (vetoed) See SF5, Art. 3, Sec. 4, 79 (First Special Session)

1.1 A bill for an act
1.2 relating to natural resources; providing for riparian buffers; proposing coding for
1.3 new law in Minnesota Statutes, chapter 103F.

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

1.5 Section 1. **[103F.46] RIPARIAN BUFFERS.**

1.6 Subdivision 1. **Definitions.** For the purposes of this section:

1.7 (1) "buffer" means an area consisting of perennial vegetation adjacent to water
1.8 resources, which protects water resources from runoff pollution; stabilizes soils, shores,
1.9 and banks; and provides aquatic and wildlife habitat; and

1.10 (2) "perennial waters" means public waters as defined under chapter 103G and
1.11 other watercourses that:

1.12 (i) have a defined bed and bank;

1.13 (ii) have evidence or indicators of flow during the majority of the growing season
1.14 in most years; and

1.15 (iii) are mapped by the commissioner according to subdivision 4.

1.16 Subd. 2. **Purpose.** It is the policy of the state to protect and establish buffers to:

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

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

1.19 (3) provide aquatic and wildlife habitat.

1.20 Subd. 3. **Buffers required.** (a) A 50-foot wide buffer of perennially rooted
1.21 vegetation is required adjacent to all perennial waters. The width must be measured from
1.22 the top or crown of the bank. Where there is no defined bank, measurement must be
1.23 from the edge of the normal water level.

2.1 (b) Buffers required under paragraph (a) must be in place by September 1, 2016,
2.2 or within one year of designation of new perennial waters in a map updated according
2.3 to subdivision 4, paragraph (e).

2.4 (c) The buffer requirement does not give the public a right to enter upon or use the
2.5 buffer area where no such right existed prior to the requirement and does not limit use of
2.6 the buffer area by the landowner as long as perennial vegetation is maintained.

2.7 Subd. 4. **Maps of perennial waters.** (a) The commissioner of natural resources
2.8 must establish and maintain an inventory map of each county that shows the waters that
2.9 are subject to the buffer requirement.

2.10 (b) Initial proposed maps must be prepared by April 1, 2016. The commissioner
2.11 must send a notification and copies of the maps to each affected city, county, watershed
2.12 district, if one exists for the area, and soil and water conservation district.

2.13 (c) Within 60 days of receiving the notice and proposed maps, a party required to
2.14 receive notice under paragraph (b) may provide comments or suggested adjustments to
2.15 the maps.

2.16 (d) The commissioner must publish final maps by August 1, 2016, on the Department
2.17 of Natural Resources Web site and provide copies of the maps to each soil and water
2.18 conservation district affected by the buffer requirement.

2.19 (e) The commissioner must update inventory maps every five years. The
2.20 commissioner must send a notification and proposed updated maps to each affected city,
2.21 county, watershed district, if one exists for the area, and soil and water conservation district.
2.22 Within 60 days of receiving the notice and proposed maps, a party required to receive notice
2.23 may provide comments or suggested adjustments to the maps. The commissioner must
2.24 publish final updated maps on the Department of Natural Resources Web site and provide
2.25 copies of the maps to each soil and water conservation district affected by the requirement.

2.26 Subd. 5. **Alternative practices.** When a 50-foot buffer will not protect or improve
2.27 water quality, a landowner may seek approval for an alternative water quality conservation
2.28 plan or alternative water quality best management practice, including variable width
2.29 buffers, that fulfills the purpose under subdivision 2. The alternative practice must be
2.30 approved in writing by a technical professional employee or contractor of the soil and water
2.31 conservation district and must be based on current and approved conservation standards.

2.32 Subd. 6. **Exemptions.** An area adjacent to perennial waters is exempt from the
2.33 buffer requirement under subdivision 3 if it is:

2.34 (1) enrolled in the federal conservation reserve program;

2.35 (2) used as a public or private water access or recreational use area;

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

3.1 (4) regulated by a national pollutant discharge elimination system/state disposal
3.2 system (NPDES/SDS) permit under Minnesota Rules, chapter 7090, in any of the
3.3 following categories:

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

3.5 (ii) construction storm water (CSW); or

3.6 (iii) industrial storm water (ISW).

3.7 Subd. 7. **Local implementation.** (a) Soil and water conservation districts must
3.8 implement the buffer requirement under subdivision 3. Duties include planning, technical
3.9 assistance to landowners, follow-up on complaints, approval of alternative practices, and
3.10 tracking progress of implementing the buffer requirement.

3.11 (b) A soil and water conservation district may delegate all or part of implementation
3.12 to another local unit of government by written agreement. Initial delegation agreements
3.13 must be completed and provided to the commissioner and the Board of Water and Soil
3.14 Resources by March 1, 2016.

3.15 (c) The commissioner of natural resources or the Board of Water and Soil Resources
3.16 must provide sufficient funds for soil and water conservation districts to implement this
3.17 section.

3.18 Subd. 8. **Authority to issue penalty order.** (a) The commissioner of natural
3.19 resources may issue an order requiring violations of this section to be corrected and
3.20 administratively assessing monetary penalties for violations consistent with section
3.21 103G.299.

3.22 (b) If the commissioner determines that a violation has been corrected or appropriate
3.23 steps have been taken to correct the violation, all or part of the penalty may be forgiven.

3.24 Subd. 9. **Failure to implement.** Upon recommendation of the commissioner of
3.25 natural resources, the state may withhold funds from a soil and water conservation district,
3.26 or its delegate, that fails to implement this section as required under subdivision 7. Funds
3.27 subject to withholding may include soil and water program aid, a natural resources
3.28 block grant, and other project or program funding. Funds may be restored upon the
3.29 commissioner's approval of a corrective action plan.

3.30 Subd. 10. **Financial assistance.** A landowner may apply for local, state, or federal
3.31 cost-share grants, contracts, or loans that may be available to establish buffers.

3.32 **EFFECTIVE DATE.** Subdivision 4 of this section is effective the day following
3.33 final enactment.

3.34 Sec. 2. **INITIAL IMPLEMENTATION; WAIVERS.**

4.1 A soil and water conservation district must grant a conditional compliance waiver
4.2 under Minnesota Statutes, section 103F.46, to landowners who have applied for and
4.3 maintained eligibility for financial assistance by September 1, 2016, according to
4.4 Minnesota Statutes, section 103F.46, subdivision 10. The conditional compliance waiver
4.5 is valid until financial assistance is available for buffer installation, but not later than
4.6 September 1, 2017.